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94th Congress }
2d Session }

COMMITTEE PRINT

A LEGISLATIVE HISTORY OF THE ENERGY
SUPPLY AND ENVIRONMENTAL
COORDINATION ACT OF 1974

TOGETHER WITH

A SECTION-BY-SECTION INDEX

PREPARED BY THE

ENVIRONMENT AND NATURAL RESOURCES POLICY
DIVISION

OF THE

CONGRESSIONAL RESEARCH SERVICE

OF THE

LIBRARY OF CONGRESS

FOR THE

COMMITTEE ON PUBLIC WORKS

U.S. SENATE

VOLUME



SEPTEMBER 1976

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NOTE: An identical contents appears in Volume 1. This volume (Volume 2), contains Chapters 9-12 and the Section-by-Section Index.

H. R. 11450

CHAPTER 9

H.R. 11450, TOGETHER WITH DEBATE AND REPORT

NOTES

On December 21, 1973, the Senate passed a compromise energy emergency bill and attached it as a nongermane amendment to the Wild and Scenic Rivers Act, S. 921. Three separate House resolutions which would have suspended the rule and allowed House consideration of the compromise failed to pass the evening of December 21, 1973. The first session of the 93d Congress adjourned on December 22, 1973, without acting on the substance of S. 2589.

H. R. 11450

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 1973

Mr. STAGGERS introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act, including the following table of contents, may
4 be cited as the "National Energy Emergency Act".

TABLE OF CONTENTS

TITLE I—ENERGY CONSERVATION, RATIONING

- Sec. 101. Purpose.
- Sec. 102. Definitions.
- Sec. 103. Rationing authority.
- Sec. 104. Energy conservation.
- Sec. 105. Coal conversion and allocation.
- Sec. 106. Regulated carriers.
- Sec. 107. Delegation of authority.
- Sec. 108. Prohibited acts.
- Sec. 109. Enforcement.
- Sec. 110. Grants to States.

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TITLE II—COORDINATION WITH ENVIRONMENTAL
REQUIREMENTS

- Sec. 201. Suspension authority.
- Sec. 202. Implementation plan revisions.
- Sec. 203. Conforming amendments.
- Sec. 204. Protection of public health and environment.
- Sec. 205. Energy conservation authority.
- Sec. 206. Reports.

1 **TITLE I—ENERGY CONSERVATION, RATIONING**2 **SEC. 101. PURPOSE.**

3 The purpose of this Act is to direct the President to pro-
 4 pose energy conservation measures and to prescribe ration-
 5 ing plans which will assure that the essential needs of the
 6 United States for fuels will be met in a manner which, to the
 7 fullest extent practicable, is consistent with existing national
 8 commitments to protect and improve the environment and
 9 minimizes any adverse impact on employment.

10 **SEC. 102. DEFINITIONS.**

11 For purposes of this Act:

12 (1) The term "State" means a State, the District of
 13 Columbia, the Commonwealth of Puerto Rico, or any
 14 territory or possession of the United States.

15 (2) The term "petroleum product" means crude
 16 oil, residual fuel oil, or any refined petroleum product.

17 **SEC. 103. RATIONING AUTHORITY.**

18 Section 4 of the Emergency Petroleum Allocation Act
 19 of 1973 is amended by adding at the end thereof the follow-
 20 ing new subsections:

1 “(h) (1) The President shall include in the regulation
2 under subsection (a) of this section provision for an order-
3 ing of priorities among users of crude oil, residual fuel oil,
4 or any refined petroleum product, and for the assignment to
5 such users of rights entitling them to obtain any such oil or
6 product in precedence to other users not similarly entitled, if
7 the President finds that such action is necessary to accomplish
8 the objective of subsection (b).

9 “(2) The President shall, by order, in accordance with
10 any action taken pursuant to paragraph (1) of this sub-
11 section, make such adjustments in the allocations made pur-
12 suant to the regulation under subsection (a) as may be
13 necessary to provide for the allocation of crude oil, residual
14 fuel oil, or any refined petroleum product in such manner
15 and in such amounts to permit such users to obtain any such
16 oil or product based upon such entitlements.

17 “(3) The President shall provide for procedures by
18 which any user of such oil or product for which entitlements
19 and priorities are established under paragraphs (1) and (2)
20 of this subsection may petition for review and reclassifica-
21 tion or modification of any determinations made under such
22 paragraphs with respect to his priority or entitlement under
23 such action or order.

24 “(4) The President may, by rule, require adjustments in
25 the processing operations of refineries in the United States

1 with respect to the proportions of residual fuel oil and re-
2 fined petroleum products produced through such operations
3 if he finds that such adjustments are necessary to assure the
4 production of residual fuel oil and refined petroleum products
5 in such proportions necessary to meet the priorities for use
6 of such products established under paragraph (1) of this
7 subsection.

8 “(i) (1) The President may, by order, require the pro-
9 duction of crude oil at the producer level—

10 “(A) at the maximum efficient rate of production;

11 or

12 “(B) at rates of production in excess of the maxi-
13 mum efficient rate if he finds that production at such
14 rates is necessary to meet essential energy needs under
15 this Act.

16 “(2) The President shall consult with the Department
17 of the Interior and with appropriate State governments in
18 order to determine which producers should be reasonably re-
19 quired to produce crude oil at the rates specified in paragraph
20 (1) of this subsection.

21 “(3) As far as practical and consistent with paragraph
22 (1) of this subsection and the objectives of subsection (b) of
23 this section, no producer shall be required to produce crude
24 oil in excess of the maximum efficient rate if production at

1 such rate for periods of more than 90 days creates excessive
2 risk of losses in the recovery of crude oil.

3 “(4) For purposes of this subsection, the term ‘maxi-
4 mum efficient rate’ means the rate at which production may
5 be sustained without detriment to the ultimate recovery of
6 crude oil under sound engineering and economic principles.”.

7 **SEC. 104. ENERGY CONSERVATION.**

8 (a) **ENERGY CONSERVATION PLANS.—**

9 (1) Within 30 days of enactment of this Act and
10 from time to time thereafter, the President shall propose
11 one or more energy conservation plans which shall be
12 designed to supplement and be coordinated with actions
13 taken and proposed to be taken under other authority
14 of this or other Acts to result in a reduction of energy
15 consumption to a level which can be supplied by avail-
16 able energy resources. For purposes of this section the
17 term “energy conservation plan” means provisions for
18 transportation controls (including highway speed
19 limits) or such other restrictions on the public or private
20 use of energy (including limitations on operating hours
21 of businesses) which are necessary to reduce energy
22 consumption.

23 (2) An energy conservation plan which takes effect
24 as provided in subsection (c) shall have the force and

6

1 effect of law and shall apply according to its terms in
2 each State except as otherwise provided in a State or
3 local exemption order which has been proposed under
4 subsection (b) and has taken effect under subsection
5 (c).

6 (3) An energy conservation plan may not deal with
7 more than one logically consistent subject matter. An
8 energy conservation plan or State or local exemption
9 order under subsection (a) may be amended or repealed
10 only in accordance with subsection (c) except that tech-
11 nical or clerical amendments may be made in accordance
12 with section 553 of title 5, United States Code.

13 (4) No provision of an energy conservation plan
14 may remain in effect after December 31, 1974.

15 (b) STATE OR LOCAL EXEMPTION ORDERS.—The Pres-
16 ident may at any time after an energy conservation plan takes
17 effect propose a State or local exemption order which pro-
18 vides that such plan does not apply in a State or political
19 subdivision which has submitted a plan which the President
20 finds accomplishes the objectives of subsection (a) and is
21 otherwise in the public interest. Such exemption order shall
22 take effect only as provided in subsection (c).

23 (c) DISAPPROVAL BY CONGRESS.—

24 (1) For purposes of this subsection, the term “en-
25 ergy action” means an energy conservation plan pro-

1 posed under subsection (a), an exemption order pro-
2 posed under subsection (b), or an amendment (other
3 than a technical or clerical amendment) or repeal of
4 such an energy conservation plan or exemption order.

5 (2) The President shall transmit any energy action
6 (hearing an identification number) to the Congress. The
7 President shall have such action delivered to both
8 Houses on the same day and to each House while it is
9 in session.

10 (3) Except as otherwise provided in paragraph
11 (4) of this subsection, an energy action shall take ef-
12 fect at the end of the first period of 15 calendar days of
13 continuous session of Congress after the date on which
14 the plan is transmitted to it unless, between the date of
15 transmittal and the end of the 15-day period, either
16 House passes a resolution stating in substance that that
17 House does not favor the energy action.

18 (4) For the purpose of subsection (a) of this
19 section—

20 (A) continuity of session is broken only by an
21 adjournment of Congress sine die; and

22 (B) the days on which either House is not in
23 session because of an adjournment of more than 3
24 days to a day certain are excluded in the computa-
25 tion of the 15-day period.

1 (5) Under provisions contained in an energy ac-
2 tion, a provision of the plan may be effective at a time
3 later than the date on which the action otherwise is ef-
4 fective (subject to subsection (a) (3)).

5 (6) An energy action which is effective shall be
6 printed in the Federal Register.

7 (d) DISAPPROVAL PROCEDURE.—

8 (1) This subsection is enacted by Congress—

9 (A) as an exercise of the rulemaking power of
10 the Senate and the House of Representatives, respec-
11 tively, and as such they are deemed a part of the
12 rules of each House, respectively, but applicable
13 only with respect to the procedure to be followed
14 in that House in the case of resolutions described by
15 paragraph (2) of this subsection; and they super-
16 secede other rules only to the extent that they are
17 inconsistent therewith; and

18 (B) with full recognition of the constitutional
19 right of either House to change the rules (so far as
20 relating to the procedure of that House) at any time,
21 in the same manner and to the same extent as in the
22 case of any other rule of that House.

23 (2) For the purpose of this subsection, “resolu-
24 tion” means only a resolution of either House of Con-
25 gress, the matter after the resolving clause of which is

1 as follows: "That the does not favor the
2 energy action numbered transmitted to Congress
3 by the President on , 19 .", the first blank
4 space therein being filled with the name of the resolving
5 House and the other blank spaces therein being appro-
6 priately filled; but does not include a resolution which
7 specifies more than one energy action.

8 (3) A resolution with respect to an energy action
9 shall be referred to a committee (and all resolutions
10 with respect to the same plan shall be referred to the
11 same committee) by the President of the Senate or the
12 Speaker of the House of Representatives as the case may
13 be.

14 (4) (A) If the committee to which a resolution
15 with respect to a reorganization plan has been referred
16 has not reported it at the end of 5 calendar days after
17 its introduction, it is in order to move either to discharge
18 the committee from further consideration of the resolu-
19 tion or to discharge the committee from further con-
20 sideration of any other resolution with respect to the
21 reorganization plan which has been referred to the
22 committee.

23 (B) A motion to discharge may be made only by
24 an individual favoring the resolution, is highly privileged

1 (except that it may not be made after the committee has
2 reported a resolution with respect to the same energy ac-
3 tion), and debate thereon shall be limited to not more
4 than 1 hour, to be divided equally between those favor-
5 ing and those opposing the resolution. An amendment to
6 the motion is not in order, and it is not in order to move
7 to reconsider the vote by which the motion is agreed to
8 or disagreed to.

9 (C) If the motion to discharge is agreed to or dis-
10 agreed to, the motion may not be renewed, nor may an-
11 other motion to discharge the committee be made with
12 respect to any other resolution with respect to the same
13 energy action.

14 (5) (A) When the committee has reported, or has
15 been discharged from further consideration of, a resolu-
16 tion with respect to an energy action, it is at any time
17 thereafter in order (even though a previous motion to
18 the same effect has been disagreed to) to move to pro-
19 ceed to the consideration of the resolution. The motion is
20 highly privileged and is not debatable. An amendment to
21 the motion is not in order, and it is not in order to move
22 to reconsider the vote by which the motion is agreed
23 to or disagreed to.

24 (B) Debate on the resolution shall be limited to not
25 more than 10 hours, which shall be divided equally

1 between those favoring and those opposing the resolu-
2 tion. A motion further to limit debate is not debatable.
3 An amendment to, or motion to recommit, the resolution
4 is not in order, and it is not in order to move to recon-
5 sider the vote by which the resolution is agreed to or
6 disagreed to.

7 (6) (A) Motions to postpone, made with respect to
8 the discharge from committee, or the consideration of a
9 resolution with respect to an energy action, and motions
10 to proceed to the consideration of other business, shall
11 be decided without debate.

12 (B) Appeals from the decisions of the Chair re-
13 lating to the application of the rules of the Senate or
14 the House of Representatives, as the case may be, to
15 the procedure relating to a resolution with respect to an
16 energy action shall be decided without debate.

17 **SEC. 105. COAL CONVERSION AND ALLOCATION.**

18 (a) **PROHIBITION OF USE OF NATURAL GAS AND**
19 **PETROLEUM PRODUCTS BY CERTAIN USERS.**—The Presi-
20 dent shall by order, after balancing on a plant-by-plant basis
21 the environmental effects of use of coal against the need to ful-
22 fill the purposes of this Act, prohibit the burning of natural
23 gas or petroleum products as its primary energy source by
24 any major fuel-burning installation including any existing
25 electric generating plant which on the date of enactment

1 has the ready capability and necessary plant equipment to
2 burn coal. Any installation to which such an order applies
3 shall be permitted to continue to use coal for at least 1 year
4 after such prohibition first applies to it. To the extent coal
5 supplies are limited to less than the aggregate to use coal, the
6 President shall prohibit the use of natural gas and petroleum
7 products for those installations where the use of coal will have
8 the least adverse environmental impact. A prohibition on use
9 of natural gas and petroleum products under this subsection
10 shall be contingent upon the availability of coal, and the
11 maintenance of reliability of service in given service area.
12 The President shall order any fossil fuel fired electric power
13 plant now in the planning process to be designed and con-
14 structed so as to have the capability of rapid conversion to
15 burn coal.

16 (b) COAL ALLOCATION AUTHORITY.—The President
17 may by rule prescribe a system for allocation of coal to users
18 thereof in order to attain the objectives specified in section
19 4 (b) of the Emergency Petroleum Allocation Act of 1973
20 and of section 204 of this Act. Sections 5, 6, and 7 of the
21 Emergency Petroleum Allocation Act of 1973 shall apply
22 to any rule under this subsection.

23 (c) EXPIRATION.—The authority under this section
24 shall expire on December 31, 1974.

1 **SEC. 106. REGULATED CARRIERS.**

2 (a) **AGENCY AUTHORITY.**—The Interstate Commerce
3 Commission, with respect to common or contract carriers
4 made subject to economic regulation under the Interstate
5 Commerce Act, the Civil Aeronautics Board and the Fed-
6 eral Maritime Commission shall, for the duration of the
7 period beginning on the date of enactment of this Act and
8 ending on December 31, 1974, have authority to take any
9 action on its own motion or on the petition of the President
10 which existing law permits such Commission or Board to take
11 upon the motion or petition of any regulated or other person
12 for the purpose of conserving energy consumption in a
13 manner found by such Commission or Board to be consistent
14 with the objectives and purposes of the Acts administered
15 by such Commission or Board.

16 (b) **REPORTS.**—Within 15 days after the date of enact-
17 ment of this Act, the Civil Aeronautics Board, the Federal
18 Maritime Commission and the Interstate Commerce Com-
19 mission shall report separately to the appropriate com-
20 mittees of the Congress on the need for additional regu-
21 latory authority in order to conserve fuel during the energy
22 emergency while continuing to provide for the public con-
23 venience and necessity. Each such report shall identify
24 with specificity—

- 1 (1) the type of regulatory authority needed ;
- 2 (2) the reasons why such authority is needed ;
- 3 (3) the probable impact on fuel conservation of
- 4 such authority ;
- 5 (4) the probable effect on the public convenience
- 6 and necessity of such authority ; and
- 7 (5) the competitive impact, if any, of such
- 8 authority.

9 Each such report shall further make recommendations with
10 respect to changes in any existing fuel allocation programs
11 which are deemed necessary to conserve fuel while provid-
12 ing for the public convenience and necessity.

13 **SEC. 107. DELEGATION OF AUTHORITY.**

14 The President may delegate all or any portion of the
15 authority granted to him under this Act to such officers,
16 departments, or agencies of the United States, or to any
17 State (or officer thereof) as he deems appropriate.

18 **SEC. 108. PROHIBITED ACTS.**

19 It shall be unlawful—

- 20 (1) for any person to take any action in violation
- 21 of any provision of an energy conservation plan which
- 22 has taken effect under section 104, or to fail to take
- 23 any action required by such a plan unless an exemption
- 24 order under section 104 has made such provision inap-

1 plicable in the State or political subdivision in which
2 the action or failure to act occurs; or

3 (2) for any person before January 1, 1975, to
4 violate or fail to take any action required by any
5 provision of a plan submitted by a State or political
6 subdivision and approved by the President under section
7 104.

8 **SEC. 109. ENFORCEMENT.**

9 (a) **CRIMINAL PENALTY.**—Whoever willfully violates
10 any provision of section 108 shall be fined not more than
11 \$5,000 for each violation.

12 (b) **CIVIL PENALTY.**—Whoever violates any provision
13 of section 108 shall be subject to a civil penalty of not
14 more than \$2,500 for each violation.

15 (c) **INJUNCTIVE AND OTHER RELIEF.**—Whenever it
16 appears to any person authorized by the President to exer-
17 cise authority under this Act that any individual or orga-
18 nization has engaged, is engaged, or is about to engage in
19 acts or practices constituting a violation of any provision of
20 section 108, such person may request the Attorney General
21 to bring an action in the appropriate district court of the
22 United States to enjoin such acts or practices, and upon a
23 proper showing a temporary restraining order or a prelim-

1 inary or permanent injunction shall be granted without bond.
2 Any such court may also issue mandatory injunctions com-
3 manding any person to comply with such provision of sec-
4 tion 108.

5 (d) PRIVATE RELIEF.—Any person suffering legal
6 wrong because of any act or practice arising out of any vio-
7 lation of section 108 may bring an action in a district court
8 of the United States, without regard to the amount in con-
9 troversy, for appropriate relief, including an action for a
10 declaratory judgment or writ of injunction. Nothing in this
11 subsection shall authorize any person to recover damages.

12 SEC. 110. GRANTS TO STATES.

13 There are authorized to be appropriated such sums as
14 may be necessary for the purpose of making grants to States
15 to which the President has delegated authority under section
16 107 of this Act. The President shall make such grants upon
17 such terms and conditions as he may prescribe.

18 TITLE II—COORDINATION WITH ENVIRON- 19 MENTAL PROTECTION REQUIREMENTS

20 SEC. 201. SUSPENSION AUTHORITY.

21 Title I of the Clean Air Act (42 U.S.C. 1857 et seq.)
22 is amended by adding at the end thereof the following new
23 section:

1 "TEMPORARY AUTHORITY TO SUSPEND CERTAIN STA-
2 TIONARY SOURCE EMISSION AND FUEL LIMITATIONS

3 "SEC. 119. (a) (1) The Administrator may, for any
4 period beginning on or after the date of enactment of this
5 section and ending on or before May 15, 1974, temporarily
6 suspend any stationary source fuel or emission limitation
7 as it applies to any person, if the Administrator finds that
8 such person will be unable to comply with such limitation
9 during such period solely because of unavailability of types
10 or amounts of fuels. Any suspension under this paragraph
11 and any interim requirement on which such suspension is
12 conditioned under subsection (b) shall be exempted from
13 any procedural requirements set forth in this Act or any
14 other provision of local, State, or Federal law, and the
15 granting of such suspension and the imposition of an interim
16 requirement shall be subject to judicial review only on the
17 grounds specified in paragraphs (2) (B) and (2) (C) of
18 section 706 of title 5, United States Code, and shall not be
19 subject to any proceeding under section 304 (a) (2) of this
20 Act.

21 "(2) (A) After public notice and opportunity for pres-
22 entation of views, the Administrator may, for any period
23 beginning after May 15, 1974, and ending not later than

1 June 30, 1977, temporarily suspend any stationary source
2 fuel or emission limitation as it applies to any person if the
3 Administrator finds that such person will be unable to com-
4 ply with such limitation solely because of the unavailability
5 of types or amounts of fuels. In issuing any suspension under
6 this subsection, the Administrator is authorized to act on
7 his own motion without application by any source or State.

8 “(B) If compliance with the stationary source fuel or
9 emission limitation for which a suspension is sought under
10 this paragraph is not feasible with fuels likely to be avail-
11 able and is feasible using any emission reduction system
12 which the Administrator determines has been adequately
13 demonstrated, the Administrator may not grant such sus-
14 pension unless the person to whom the suspension applies
15 has entered into a contractual obligation to obtain such a
16 system in accordance with priorities established under sub-
17 section (c).

18 “(C) A suspension granted under this paragraph shall
19 be granted only for the period during which the person to
20 whom it applies can reasonably be expected to be unable
21 to obtain fuels or an emission reduction system necessary
22 to permit him to comply with the stationary source fuel or
23 emission limitation which it suspends.

24 “(D) Any person may obtain judicial review of a
25 suspension under this paragraph and of any interim require-

1 ment on which such suspension is conditioned under sub-
2 section (b) by filing a petition with the United States
3 district court for any judicial district in which is located any
4 stationary source to which the action of the Administrator
5 applies. The second and third sentences of clause (ii) and
6 clauses (iii) and (iv) of section 206(b) (2) (B) of this
7 Act shall apply to judicial review under this paragraph. No
8 proceeding under section 304(a) (2) may be commenced
9 with respect to any action or failure to act under this
10 paragraph.

11 “(b) Any suspension under subsection (a) shall be
12 conditioned upon compliance with such interim require-
13 ments as the Administrator determines necessary for pro-
14 tection of public health and with such monitoring require-
15 ments as may be necessary to determine the effects on health
16 or air quality of suspensions under subsection (a). Such
17 interim requirements shall include, but not be limited to,
18 a requirement that the suspension lapse for any period during
19 which fuels or emission reduction systems which would enable
20 compliance with the suspended fuel or emission limitations
21 are in fact available to that person (as determined by the
22 Administrator).

23 “(c) The Administrator may by rule establish priorities
24 under which manufacturers of emission reduction systems
25 shall provide such systems to users thereof, if he finds that

1 priorities must be imposed in order to assure that such sys-
2 tems are first provided to users in air quality control regions
3 with the most severe air pollution.

4 “(d) The Administrator shall study, and report to Con-
5 gress not later than March 31, 1974, with respect to—

6 “(1) the present and projected impact on the pro-
7 gram under this Act of fuel shortages and of allocation
8 and rationing programs;

9 “(2) availability of scrubber technology (including
10 projections respecting the time, cost, and number of
11 units available) ;

12 “(3) number of sources and locations which must
13 use such technology based on projected fuel availability
14 data;

15 “(4) priority schedule for implementation of scrub-
16 ber technology, based on public health or air quality;

17 “(5) evaluation of availability of technology to
18 burn municipal solid waste in these sources; including
19 time schedules, priorities, analysis of unregulated pol-
20 lutants which will be emitted and balancing of health
21 benefits and detriments from burning solid waste and
22 of economic costs;

23 “(6) projections of air quality impact of fuel short-
24 ages and allocations;

25 “(7) evaluation of alternative control strategies for

1 other sulfur-emitting sources in order to comply with
2 national ambient air quality standards within the time
3 frames prescribed in the Act, including desulfurization of
4 home heating fuels and associated considerations of cost,
5 time frames, feasibility, and effectiveness;

6 “(8) proposed allocations of scrubber technology for
7 nonsolid waste producing systems to sources which are
8 least able to handle solid waste byproduct, technologi-
9 cally, economically, and without hazard to public health,
10 safety, and welfare;

11 “(9) plans for monitoring or requiring variance-
12 receiving sources to monitor impact of variances on con-
13 centration of sulfur dioxide in the ambient air.

14 “(e) No State or political subdivision may require any
15 person to whom a suspension has been granted under
16 subsection (a) to use any fuel the unavailability of which is
17 the basis of such person’s suspension (except that this pre-
18 emption shall not apply to requirements identical to Federal
19 interim requirements). No State or political subdivision may
20 require any person to use an emission reduction system for
21 which priorities have been established under subsection (c)
22 except in accordance with such priorities.

23 “(f) (1) It shall be unlawful for any person to whom a
24 suspension has been granted under subsection (a) to violate

1 any requirement on which the suspension is conditioned
2 pursuant to subsection (b).

3 “(2) It shall be unlawful for any person to violate any
4 rule under subsection (c).

5 “(g) For purposes of this section:

6 “(1) The term ‘stationary source fuel or emission lim-
7 itation’ means any emission limitation, schedule, or time-
8 table for compliance, or other requirement, which is pre-
9 scribed under this Act (other than section 303) or contained
10 in an applicable implementation plan and which is designed
11 to limit stationary source emissions resulting from combustion
12 of fuels.

13 “(2) The term ‘stationary source’ has the same mean-
14 ing as such term has under section 111 (a) (3).”.

15 **SEC. 202. IMPLEMENTATION PLAN REVISIONS.**

16 Section 110 (a) of the Clean Air Act is amended—

17 (1) in paragraph (2) (B) by inserting before the
18 semicolon at the end thereof “, and provision for energy
19 conservation measures”; and

20 (2) in paragraph (3), by inserting “(A)” after
21 “(3)” and by adding at the end thereof the following
22 new subparagraph:

23 “(B) The Administrator shall conduct a study of each
24 applicable implementation plan and no later than May 1,
25 1974, determine for each State whether its plan must be

1 revised in order to achieve the national primary or secondary
2 standard within the deadlines established under paragraph
3 (2) (A) of this subsection. In making such determination
4 the Administrator shall consider any current or anticipated
5 suspensions under section 119 and any projected shortages of
6 fuels or emission reduction systems. Plan revisions for any
7 State for which the Administrator determines its plan is
8 inadequate shall be submitted not later than July 1, 1974,
9 and shall be approved or disapproved by the Administrator,
10 after public notice and opportunity for hearing, but not later
11 than September 1, 1974. If a plan revision is disapproved,
12 the Administrator shall, after public notice and opportunity
13 for a hearing, promulgate a revised plan not later than
14 November 1, 1974.”.

15 **SEC. 203. CONFORMING AMENDMENTS.**

16 (a) (1) Section 113 (a) (3) of the Clean Air Act is
17 amended by striking out “or” before 112 (c) and by inserting
18 after “hazardous emissions” the following: “, or 119 (f)
19 (relating to interim requirements and priorities during
20 suspensions).”.

21 (2) Section 113 (b) (3) of such Act is amended by
22 striking out “or 112 (c)” and inserting in lieu thereof
23 “, 112(c), or 119 (f)”.

24 (3) Section 113 (c) (1) (C) of such Act is amended

1 by striking out "or section 112 (c)" and inserting in lieu
2 thereof " , section 112 (c) , or section 119 (f) ".

3 (4) Section 114 (a) of such Act is amended by inserting
4 "119 or" before "303".

5 (b) Section 116 of the Clean Air Act is amended by
6 inserting "119 (f)" before "209".

7 **SEC. 204. PROTECTION OF PUBLIC HEALTH AND ENVIRON-**
8 **MENT.**

9 (a) Any rationing and conservation program provided
10 for in title I of this Act or in the Emergency Petroleum Allo-
11 cation Act of 1973 shall, to the maximum extent practicable,
12 include measures to assure that available low sulfur fuel will
13 be distributed on a priority basis to those areas of the coun-
14 try designated by the Administrator of the Environmental
15 Protection Agency as requiring low sulfur fuel to avoid or
16 minimize adverse impact on public health.

17 (b) (1) For the period beginning May 15, 1974, the
18 Administrator of the Environmental Protection Agency may,
19 after public notice and opportunity for presentation of views
20 in accordance with section 553 of title 5, United States Code,
21 and consultation with the Energy Policy Office or the Pres-
22 ident's designee, issue exchange orders to any person or
23 persons requiring the exchange of any fuel subject to alloca-
24 tion or rationing under title I of this Act. The purpose of
25 such exchange orders shall be to avoid or minimize the

1 adverse impact of any such allocation or rationing on public
2 health in those areas of the country designated by the Ad-
3 ministrator under subsection (a). The Administrator may
4 issue an order under this subsection only if he finds that (A)
5 substantial emission reductions will be afforded for one or
6 more emission sources in areas designated under subsection
7 (a), and (B) the costs and fuel availability impact of such
8 order will not be excessive.

9 (2) Violation of any exchange order issued under para-
10 graph (1) of this subsection shall be a prohibited act and
11 shall be subject to enforcement action and sanctions in the
12 same manner and to the same extent as a violation of any
13 requirement of an energy conservation and rationing pro-
14 gram under title I of this Act.

15 (c) (1) In exercising his authority to require the con-
16 version of any major fuel-burning installations from burn-
17 ing oil or natural gas as its primary energy source to burn-
18 ing coal under section 105, the President shall balance, on
19 a plant-by-plant basis, the public health and environmental
20 impact of such conversion against the need for such conver-
21 sion to alleviate any fuel shortage. To the extent that coal
22 supply availability is less than total conversion capability,
23 the President shall, to the maximum extent practicable,
24 establish conversion priorities for those plants in which

1 the use of coal will have the least adverse impact on public
2 health.

3 (2) In order to determine the health effects of emis-
4 sions of sulfur oxides to the air resulting from any conver-
5 sions to burning coal pursuant to section 105, the Depart-
6 ment of Health, Education, and Welfare shall, in coopera-
7 tion with the Environmental Protection Agency, conduct a
8 study of acute and chronic effects among exposed popula-
9 tions. The sum of \$2,000,000 is authorized to be appro-
10 priated for such a study.

11 (d) No major action taken under this Act shall, for a
12 period of 1 year after initiation of such action, be deemed a
13 major Federal action significantly affecting the quality of the
14 human environment within the meaning of the National
15 Environmental Policy Act of 1969 (83 Stat. 856). How-
16 ever, prior to taking any such major action that has a signifi-
17 cant impact on the environment, if practicable, or in any
18 event within 60 days of taking such action, an environmental
19 evaluation with analysis equivalent to that required under
20 section 102 (2) (C) of the National Environmental Policy
21 Act, to the greatest extent practicable within this time con-
22 straint, shall be prepared and circulated to appropriate Fed-
23 eral, State, and local government agencies and to the public
24 for a 30-day comment period after which a public hearing
25 shall be held upon request to review outstanding environ-

1 mental issues. Such an evaluation shall not be required where
2 the action in question has been preceded by compliance with
3 the National Environmental Policy Act by the appropriate
4 Federal agency. Any action taken under this Act which will
5 be in effect for more than a 6-month period, or any action to
6 extend an action taken under this Act to a total period of
7 more than 1 year shall be subject to the full provisions of the
8 National Environmental Policy Act notwithstanding any
9 other provision of this Act.

10 **SEC. 205. ENERGY CONSERVATION STUDY.**

11 The President shall conduct a study on potential meth-
12 ods of energy conservation and, not later than 6 months
13 after the date of enactment of this Act, shall submit to Con-
14 gress a report on the results of such study. The study shall
15 include, but not be limited to, the following:

16 (1) the energy conservation potential of restricting
17 exports of fuels or energy-intensive products or goods,
18 including an analysis of balance of payments and foreign
19 relations implications of any such restrictions;

20 (2) federally sponsored incentives for the use of
21 public transit, including the need for authority to re-
22 quire additional production of buses or other means
23 of public transit and Federal subsidies for the dura-
24 tion of the energy emergency for reduced fares and addi-

1 tional expenses incurred because of increased service;
2 and

3 (3) alternative requirements, incentives, or disin-
4 centives for increasing industrial recycling and resource
5 recovery in order to reduce energy demand, including
6 the economic costs and fuel consumption trade-off which
7 may be associated with such recycling and resource re-
8 covery in lieu of transportation and use of virgin
9 materials.

10 **SEC. 206. REPORTS.**

11 The Administrator of the Environmental Protection
12 Agency shall report to Congress not later than January 31,
13 1975, on the implementation of this title.

ENERGY EMERGENCY ACT

DECEMBER 10, 1973.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

together with

MINORITY AND SEPARATE VIEWS

[To accompany H.R. 11450]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill H.R. 11450 to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

(1) Page 1, strike out line 3, and all that follows down to but not including line 1, on page 2, and insert in lieu thereof the following:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

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TITLE I—ENERGY EMERGENCY AUTHORITIES

- Sec. 101. Purpose.
- Sec. 102. Definitions.
- Sec. 103. Amendments to the Emergency Petroleum Allocation Act of 1973.
- Sec. 104. Federal Energy Administration.
- Sec. 105. Energy conservation.
- Sec. 106. Coal conservation and allocation.
- Sec. 107. Regulated carriers.
- Sec. 108. Delegation of authority.
- Sec. 109. Administration.
- Sec. 110. Prohibited acts.
- Sec. 111. Enforcement.
- Sec. 112. Grants to States.
- Sec. 113. Fair marketing of petroleum products.
- Sec. 114. Voluntary energy conservation agreements.
- Sec. 115. Prohibitions or unreasonable allocation regulations.

- Sec. 116. Use of carpools.
- Sec. 117. Restrictions on windfall profits.
- Sec. 118. Importations of liquified natural gas.
- Sec. 119. Development of additional electric power resources.
- Sec. 120. Antitrust provisions.
- Sec. 121. Comprehensive review of export and foreign investment policies.
- Sec. 122. Employment impact and worker assistance.
- Sec. 123. Exports.
- Sec. 124. Report and termination date.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

- Sec. 201. Suspension authority.
- Sec. 202. Implementation plan revisions.
- Sec. 203. Conforming amendments.
- Sec. 204. Protection of public health and environment.
- Sec. 205. Energy conservation study.
- Sec. 206. Reports.
- Sec. 208. Recommendations for siting of energy facilities.
- Sec. 209. Fuel economy study.

(2) Page 2, strike out line 1, and all that follows down through line 9, on page 2, and insert in lieu thereof the following:

TITLE I—ENERGY EMERGENCY AUTHORITIES

SEC. 101. PURPOSE.

The purpose of this Act is to call for proposals for energy emergency conservation measures and to authorize specific temporary emergency actions to be exercised to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable, (1) is consistent with existing national commitments to protect and improve the environment, (2) minimizes any adverse impact on employment, (3) provides for equitable treatment of all sectors of the economy, and (4) maintains vital services necessary to health, safety, and public welfare.

(3) Page 2, strike out line 10, and all that follows down through line 16, on page 2, and insert in lieu thereof the following:

SEC. 102. DEFINITIONS.

For purposes of this Act:

- (1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.
- (2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).
- (3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.
- (4) The term "Administrator" means the Administrator of the Federal Energy Administration.

(4) Page 2, strike out line 17, and all that follows down through line 6, on page 5, and insert in lieu thereof the following:

SEC. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:

"(h) (1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in

precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

"(2) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product in such manner and in such amounts to permit such users to obtain any such oil or product based upon such entitlements.

"(3) The President shall provide for procedures by which any user of such oil or product for which priorities and entitlements are established under paragraphs (1) and (2) of this subsection may petition for review and reclassification or modification of any determination made under such paragraphs with respect to his priority or entitlement. Such procedures may include procedures with respect to local boards as may be established pursuant to section 109(c) of the Energy Emergency Act.

"(4) The President may, by order or rule (which rule shall be deemed a part of the regulation under subsection (a)) require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product produced through such operations if he finds that such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions necessary to attain the objectives of subsection (b) of this section.

"(5) The President shall consult with the Department of Labor, and if there is an increase in the level of unemployment from the level of unemployment in 1973 based upon the average 1973 figures and such increase reasonably results from energy shortages, then the President is urged to take such actions, consistent with the provisions of this Act, as he is authorized to take under this Act and any other Acts to encourage full production by the domestic energy industry at levels of investment return which make possible the expansion of facilities required to assure against a protraction in any such increased levels of unemployment.

"(6) For purposes of this subsection, the term "allocation" shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

"(i) (1) The President may, by order, require the production of crude oil at the producer level at the maximum efficient rate of production.

"(2) The President shall consult with the Department of the Interior and with appropriate State governments in order to determine which producers should be reasonably required to produce crude oil at the rates specified in paragraph (1) of this subsection.

"(3) For purposes of this subsection, maximum efficient rate with respect to any oil field other than oil fields on Federal lands shall be such rate as is determined by the State in which such oil field is located, and respect to any oil field on Federal land shall be such rate as is determined by the Department of the Interior, except that the President may establish after consultation with such State (or with the Department of the Interior, in the case of any oil field on Federal lands) a maximum efficient rate higher than the rate established by the State or by the Department of the Interior if he determines that such higher maximum efficient rate will not unreasonably impair the ultimate recovery of crude oil or natural gas from any such oil field under sound engineering and economic principles.

"(4) The President shall direct the appropriate Federal agency to require that all existing and future development plans for oil fields involving Federal leases, permits or other arrangements for production of crude oil on Federal lands shall include or be amended to include effective provisions for the secondary recovery of crude oil, and, to the greatest extent technologically possible consistent with sound engineering and economic principles, for the tertiary recovery of crude oil, before the well is abandoned.

"(j) Notwithstanding any other provisions of this Act, or any provision of State or local law with respect to the allocation of gasoline or diesel fuel, there shall be provision for adequate supplies of gasoline, diesel fuel related products for essential and purposeful mobility of persons in the Armed Services of the United States on military orders, for household moves related to employment or

displacement due to unemployment, and for moves due to health, educational opportunities, or other good and sufficient reasons."

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(1) fuels, and

"(2) minerals essential to the requirements of the United States, and for required transportation related thereto;"

(c) Section 4(c)(3) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "or" immediately before "(B)" and by inserting immediately before the period at the end thereof the following: ", or (C) to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to the date of enactment of this Act as a result of unusual regional climatic variations within the United States".

(d) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

(5) Page 5, insert after line 6, the following:

SEC. 104. FEDERAL ENERGY ADMINISTRATION.

(a) There is hereby established a Federal Energy Administration, to be headed by a Federal Energy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator may be removed by the President for cause. The Administrator shall serve for a term ending on May 15, 1975. Vacancies in the office of Administrator shall be filled for the remainder of the term of the original Administrator, in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under sections 4, 5, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by sections 103, 117, and 118, of this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d) Section 27(k) of the Consumer Product Safety Act shall apply to the Administrator. The Federal Energy Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code.

(6) Page 5, strike out line 7, and all that follows down through line 16, on page 11, and insert in lieu thereof the following:

SEC. 105. ENERGY CONSERVATION PLANS.

(a) Within 30 days of the date of enactment of this Act and from time to time thereafter, the Administrator shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under other authority of this or other Acts to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section the term "energy conservation plan" means proposed plans for transportation controls (including highway speed limits, and plans for maximizing car pooling arrangements in all communities and businesses where applicable), priority allocation plans for energy conserving recyclable raw materials for use within the United States, or such other restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption. The Administrator shall submit such plans to the Congress for appropriate action.

(b) Energy conservation plans shall provide for the maintenance of vital services (including new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare.

(c) Plans submitted by the Administrator pursuant to subsection (a) of this section shall provide that, to the maximum extent practicable, proposed restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restrictions on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof.

(7) Page 11, strike out line 17, and all that follows down through line 24, on page 12, and insert in lieu thereof the following:

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) PROHIBITION OF USE OF NATURAL GAS AND PETROLEUM PRODUCTS BY CERTAIN USERS.—The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of the Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in subsection (b) of this section until January 1, 1980. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator may require that fossil fuel fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil fuel fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would be unreasonable or would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether a conversion requirement under this subsection is unreasonable, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the availability of compensation or tax relief for any capital loss incurred through such conversion requirement.

(b) USE OF COAL.—

(1) Except as provided in paragraph (2), any electric powerplant (A) which is prohibited from using petroleum products or natural gas by reason of an order issued under subsection (a), and (B) which converts to the use of coal, shall not, until January 1, 1980, be prohibited from burning coal which is available to such source by any fuel or emission limitation, if the Administrator of the Environmental Protection Agency approves after notice to interested persons and opportunity for presentation of views (including oral presentation) a plan submitted by the person who operates such plant. A plan submitted under the preceding sentence shall be approved only if it provides (A) that such plant shall make such use of control technology as may be necessary to enable such plant to come into compliance with the fuel or emission limitation to which the suspension applied, as expeditiously as practicable; (B) for a schedule described in section 119 (a) (2) (A) (iii) of the Clean Air Act (excluding section 119 (a) (2) (B) (i); and (C) that such plan will, during the period beginning on the effective date of the approval of the plan and ending at the time such plant complies with such stationary source fuel or emission limitation, comply with interim requirements which the Administrator of the Environmental Protection Agency shall prescribe to assure that such source will not materially contribute to a significant risk to

public health. Such Administrator shall approve any such plan before May 15, 1974, or if later 60 days after such plan is submitted.

(2) Nothing in paragraph (1) shall prohibit the Administrator of the Environmental Protection Agency or a State or local agency, to the extent practicable after notice to interested persons and opportunity for presentation of views (including coal presentations), (A) from prohibiting the use of coal by such a source to which paragraph (1) applies if such Administrator or any such agency determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; or (B) from requiring such source to use a particular grade of coal of any particular type, grade or pollution characteristic, if such coal is available to such source.

(3) For purposes of this subsection, the term "fuel emission limitation" means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State or local law or regulation (including the Clean Air Act (and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels)).

(c) **COAL ALLOCATION AUTHORITY.**—The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in section 4(b) of the Emergency Petroleum Allocation Act of 1973 and of section 205 of this Act.

(d) **EXPIRATION.**—The authority under this section (other than subsection (b)) shall expire on May 15, 1975.

(8) Page 13, strike out line 1, and all that follows down through line 12, on page 14, and insert in lieu thereof the following:

SEC. 107. REGULATED CARRIERS.

(a) **AGENCY AUTHORITY.**—The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act) the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier is authorized by the Commission to provide service. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) **REPORTS.**—Within sixty days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

- (1) the type of regulatory authority needed;
- (2) the reasons why such authority is needed;
- (3) the probable impact on fuel conservation of such authority;
- (4) the probable effect on the public convenience and necessity of such authority; and
- (5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

(9) Page 14, strike out line 13, and all that follows down through line 17, on page 14, and insert in lieu thereof the following:

SEC. 108. DELEGATION OF AUTHORITY.

The Administrator may delegate all or any of his functions under this Act or the Emergency Petroleum Allocation Act of 1973 to any officer or employee of the Federal Energy Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation of regulations and energy conservation plans under this Act or the Emergency Petroleum Allocation Act of 1973 to officers of a State, or to State or local boards of balanced composition reflecting the makeup of the community as a whole. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed, effective on the effective date of transfer of functions under such Act to the Administrator.

(10) Page 14, insert after line 17, the following:

SEC. 109. ADMINISTRATION.

(a) ADMINISTRATIVE PROCEDURE.—

(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title except with respect to any rule or order pursuant to section 107 of this Act, section 205(a), (b), (c), and (d) of this Act, or section 4(h) or 4(i) of the Emergency Petroleum Allocation Act of 1973, or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases, such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) JUDICIAL REVIEW.—Any interested person (including a State or political subdivision thereof) may obtain judicial review of any rule or order described in subsection (a)(1) of this section in accordance with chapter 7 of title 5, United States Code. Review of a rule may be obtained in the temporary Emergency Court of Appeals. Review of a rule or order shall be pursuant to the procedures of section 211 of the Economic Stabilization Act of 1970.

(c) LOCAL BOARDS.—

(1) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such Board shall take steps reasonably calculated to provide notice

to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

(11) Page 14, strike out line 18, and all that follows down through line 7, on page 15, and insert in lieu thereof the following:

SEC. 110. PROHIBITED ACTS.

It shall be unlawful—

(1) for any person, who is engaged in the business of marketing or distributing diesel fuel to trucks on bona fide cargo runs, to deny to such trucks full fill-ups of fuel, unless—

(A) there is in effect under this Act, the Emergency Petroleum Allocation Act of 1973, or any other Act an end-use allocation regulation which restricts such full fill-ups by such person to such trucks, or

(B) such person has no such fuel available for sale;

(2) to violate any order under section 106;

(3) to violate any rule under the first sentence of section 123; or

(4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117 of this Act.

(12) Page 15, strike out line 8, and all that follows down through line 11, on page 16, and insert in lieu thereof the following:

SEC. 111. ENFORCEMENT.

(a) **CRIMINAL PENALTY.**—Whoever willfully violates any provision of section 110 shall be fined not more than \$5,000 for each violation.

(b) **CIVIL PENALTY.**—Whoever violates any provision of section 110 shall be subject to a civil penalty of not more than \$2,500 for each violation.

(c) **INJUNCTIVE AND OTHER RELIEF.**—Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any provision of section 110, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with such provision of section 110.

(d) **PRIVATE RELIEF.**—Any person suffering legal wrong because of any act or practice arising out of any violation of section 110 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

(13) Page 16, strike out line 12, and all that follows down through line 17, on page 16, and insert in lieu thereof the following:

SEC. 112. GRANTS TO STATES.

There are authorized to be appropriated such sums as may be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe.

(14) Page 16, insert after line 17, the following:

SEC. 113. FAIR MARKETING OF PETROLEUM PRODUCTS.

The Emergency Petroleum Allocation Act of 193 is amended by adding at the end thereof the following new section:

"FAIR MARKETING OF REFINED PETROLEUM PRODUCTS"

"Sec. 8. (a) As used in this section:

"(1) The term 'commerce' means commerce between a State and a point outside such State.

"(2) The term 'marketing agreement' means that portion of an agreement or contract between a refiner and a branded independent marketer (A) which authorizes such marketer to market or distribute refined petroleum products using a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner, or (B) which authorizes such marketer to occupy premises owned, leased, or in any way controlled by a refiner, for the purposes of marketing or distributing refined petroleum products, or (C) which authorizes both.

"(3) The term 'person' means an individual or a corporation, partnership, joint-stock company, business trust, association, or any organized group of individuals whether or not incorporated.

"(4) The term 'refiner' includes any person (other than a branded independent marketer) who controls, is controlled by, or under common control with, a refiner. For purposes of the preceding sentence, the term 'control' does not include control solely by mean of a supply contract.

"(5) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any organized territory or possession of the United States.

"(6) The term 'to terminate' includes to cancel or to fail to renew.

"(b) The following conduct is prohibited:

"(1) A refiner shall not terminate a marketing agreement unless he furnishes prior notification pursuant to this paragraph to each branded independent marketer to which such termination applies. Such notification shall be in writing and shall be accomplished by certified mail to each such marketer; shall be furnished not less than ninety days prior to the date on which such agreement will be terminated; and shall contain a statement of intention to terminate together with the reasons therefor, the date on which such termination shall take effect, and a statement of any remedy or remedies available to such marketer under this section, together with a summary of the provisions of this section.

"(2) A refiner shall not terminate a marketing agreement unless the branded independent marketer to which such termination applies failed to comply substantially with one or more essential and reasonable requirements of such marketing agreement or failed to act in good faith in carrying out the terms of such agreement; except that such refiner may terminate such agreement if he does not, during the 3-year period which begins on the date of such termination, engage in the sale of any refined petroleum product in commerce for sale other than for resale in any relevant market within which such branded independent marketer operated.

"(c) (1) A branded independent marketer may maintain a suit under this section against a refiner who engages in conduct prohibited by subsection (b), whose actions affect commerce, and whose products he sells or has sold, directly or indirectly, under a marketing agreement.

"(2) The court may award to any branded independent marketer actual damages resulting from the termination of a marketing agreement together with such equitable relief (including interim equitable relief and punitive damages) as may be appropriate, including declaratory judgments and mandatory or prohibitive injunctive relief. The court may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

(d) A suit under this section may be brought in the district court of the United States for any district in which the plaintiff resides, is found, or is doing business, without regard to the amount in controversy. No suit shall be maintained under this section unless commenced within four years after the date of the termination of such marketing agreement."

(15) Page 16, insert after line 17, the following:

SEC. 114. VOLUNTARY ENERGY CONSERVATION AGREEMENTS.

(a) Within fifteen days of the date of enactment of this Act, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards, and procedures by which retail or service establishments may develop and implement voluntary agreements to promote energy conservation by limiting the operating hours of such retail or service establishments, adjusting retail-store delivery schedules, and by taking such other actions as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, by rule determines to be necessary and appropriate to accomplish the objectives of this Act.

(b) The standards and procedures under subsection (a) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(i) A written copy of any agreement under this section shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection;

(ii) Meetings held to develop and implement an agreement under this section shall permit attendance by interested persons and shall be preceded by timely notice to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(iii) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings; and

(iv) A written summary of the proceedings of any such meeting together with copies of any written data, views, and arguments presented by interested persons shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection.

(c) Action taken in good faith, in accordance with this section and rules promulgated hereunder, to develop and implement a voluntary energy conservation agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act, or similar State statutes.

(d) Any voluntary agreement entered into pursuant to this section shall be arbitrary or capricious, and shall not unreasonably discriminate among users. The Attorney General, at any time, on his motion or upon the request of any interested person, may disapprove any such voluntary agreement and thereby withdraw prospectively the immunity conferred by subsection (c).

(e) As used in this section—

(i) The term "voluntary agreement" shall not pertain to, or govern the conduct of, activities relating to the marketing and distribution of any petroleum product.

(ii) The term "retail or service establishment" shall mean an establishment of 75 per centum of whose annual dollar volume of sales of goods or services (or both) is not for resale and is recognized as retail sales or services in the particular industry, as determined by the Attorney General.

(f) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President at least once every six months a report on the impact on competition and on small business of the voluntary agreements authorized by this section.

(g) The authority granted by this section (including any immunity under subsection (c)) shall terminate on May 15, 1975).

(16) Page 16, insert after line 17, the following:

SEC. 115. PROHIBITIONS ON UNREASONABLE ALLOCATION REGULATIONS.

Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users.

(17) Page 16, insert after line 17, the following:

SEC. 116. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees ;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems ; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government :

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial start-up and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed one year.

(e) Within twelve months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of \$25,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for two years.

(g) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(h) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

(18) Page 16, insert after line 17, the following :

SEC. 117. RESTRICTIONS ON WINDFALL PROFITS.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 103 of this Act) is further amended by adding at the end thereof the following new subsection :

"(k) (1) The President shall exercise his authority under this Act and under the Economic Stabilization Act of 1970 so as to specify prices for sales of crude oil, refined petroleum products, residual fuel oil, and coal, produced in or imported into the United States, which avoid windfall profits by sellers.

"(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, refined petroleum products, residual fuel oil, or coal, permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the 'Board') for a determination under subparagraph (A) or (B) of paragraph (3).

"(3) (A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of crude oil, any refined petroleum product, residual fuel oil, or coal, permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such price permits windfall profits to be so received, it shall specify a price for the sales of such item which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified for sales of such item (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

"(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of crude oil, any refined petroleum product, residual fuel oil, or coal, permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller the items the price of which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order, for the purpose of refunding such profits, the seller to reduce the price for future sales of the item the price of which resulted in windfall profits, to create a fund against which previous purchasers of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

"(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

"(4) (A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purpose of this subsection.

"(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

"(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

"(6) For the purposes of subparagraph (B) of paragraph (3), the term 'windfall profits' means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of crude oil, any refined petroleum product, residual fuel oil, or coal, determined by the Board to be in excess of the lesser of—

"(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

"(i) the reasonableness of its costs and profits with particular regard to volume of production;

"(ii) the net worth, with particular regard to the amount and source of capital employed;

"(iii) the extent of risk assumed;

"(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

"(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

"(B) the greater of—

"(i) the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971; or

"(ii) the average profit obtained by the particular seller for the particular item during such calendar years.

"(7) Except as provided in paragraph (4) for the purposes of this subsection, the term 'windfall profits' means profit in excess of the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971.

"(8) For the purposes of this subsection, the term 'interested person' includes the United States, any State, and the District of Columbia."

(b) Notwithstanding any other provision of law, administrative proceedings before the Board under section —() of the Emergency Petroleum Allocation Act of 1973 shall be governed by subchapter II of chapter 5 of title 5, United

States Code, and such proceeding shall be reviewed in accordance with chapter 7 of such title.

(19) Page 16, insert after line 17, the following:

SEC. 118. IMPORTATION OF LIQUIFIED NATURAL GAS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"SEC. 9. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquified natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquified natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

(20) Page 16, insert after line 17, the following:

SEC. 119. DEVELOPMENT OF ADDITIONAL ELECTRIC POWER RESOURCES.

Not later than ninety days after the date of enactment for this Act, the President shall prepare and submit to Congress a plan for the development of the hydroelectric power, solar energy, and geothermal resources of the United States by Federal and non-Federal interests. Such a plan shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power, solar energy and geothermal resources, including tidal power and pumped storage.

(21) Page 16, insert after line 17, the following:

SEC. 120. ANTITRUST PROVISIONS.

(a) Except as specifically provided in this section, no provision of this Act shall be deemed to confer any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" includes—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and other purposes", approved October 14, 1914 (15 U.S.C. 12 et seq.);

(3) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(4) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. 1), shall in all cases be chaired by a regular full-time Federal employee, and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and shall be taken and deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing any petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(i) Such voluntary agreements and plans of action shall be developed by committees, councils, or other groups which include representatives of the public, and shall in all cases be chaired by a regular full-time Federal employee.

(ii) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(iii) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings;

(iv) Except as provided in (v) below, a full and complete verbatim transcript shall be kept of any meeting held to develop a voluntary agreement or a plan of action under this subsection and shall be taken and deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code; and

(v) In the case of meetings held for the sole purpose of developing a voluntary agreement or a plan of action which governs the retail marketing or distribution of refined petroleum products, a written summary of the proceedings of any such meeting together with copies of any written data, views and arguments presented by interested persons shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code.

(f) The Administrator, upon approval of the Attorney General and the Federal Trade Commission, may exempt types or classes of meetings, conferences, or communications from the requirements of subsection (e) where such types or classes of meetings, conferences, or communications are determined to be necessary to implement any such agreement or plan of action. Such meeting, conference, or communication may take place and be recorded in accordance with such requirements as the Administrator may prescribe by rule, subject to the approval of the Attorney General and the Federal Trade Commission, as consistent with the purposes of this section.

(g) Actions taken in good faith, by persons engaged in the business of producing, refining, marketing, or distributing any petroleum product, in accordance with this section and rules promulgated hereunder, to develop and implement a voluntary agreement or a plan of action to carry out a voluntary agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act, or similar State and local statutes.

(h) Any voluntary agreement or plan of action entered into pursuant to subsections (d) and (e) of this section shall be submitted in writing to the Attorney General and the Federal Trade Commission ten days before being implemented. Such agreement or plan of action shall be available for public inspection in accordance with the provisions of section 552 of title 5, United States Code. The Attorney General or the Federal Trade Commission, at any time, on motion or upon the request of any interested person, may modify, amend, disapprove or revoke any such voluntary agreement or plan of action and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (g) of this section.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President at least once every six months a report of the impact of competition and on small business of actions authorized by this section.

(j) The authority granted by this section (including any immunity under subsection (g)) shall terminate on May 15, 1975.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973 and all actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted as the case may be pursuant to this section.

(l) Section 708 of the Defense Production Act of 1950, as amended, shall

not apply to any action taken to implement the authority contained in this Act or the Emergency Petroleum Allocation Act of 1973.

(22) Page 16, insert after line 17, the following:

SEC. 121. COMPREHENSIVE REVIEW OF EXPORT AND FOREIGN INVESTMENT POLICIES.

The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation and shall be submitted to Congress within ninety days after the date of enactment of this Act."

(23) Page 16, insert after line 17, the following:

SEC. 122. EMPLOYMENT IMPACT AND WORKER ASSISTANCE.

(a) Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

(24) Page 16, insert after line 17, the following:

SEC. 123. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate. In the administration of such restrictions, the Administrator may use existing statutory authorities and regulations including, but not limited to, the Export Administration Act of 1969. Rules under this section shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

(25) Page 16, insert after line 17, the following:

SEC. 124. REPORT AND TERMINATION DATE.

(a) No later than September 1, 1974, the President shall submit to Congress an interim report on the implementation of this Act, together with such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

(b) Notwithstanding any other provisions of title I of this Act or of the Emergency Petroleum Allocation Act of 1973, any authorities granted in title I of this Act or by the Emergency Petroleum Allocation of 1973 which, but for this section would expire on December 31, 1974, one year after the date of enactment of this Act, or on February 28, 1975, shall expire on May 15, 1975.

(26) Page 16, strike out line 18, and all that follows down through line 14, on page 22, and insert in lieu thereof the following:

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

**"TEMPORARY AUTHORITY TO SUSPEND CERTAIN STATIONARY SOURCE EMISSION
AND FUEL LIMITATIONS**

"SEC. 119. (a) (1) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before May 15, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under subsection (b) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2) (B) and (2) (C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a) (2) of this Act.

"(2) (A) After public notice and public hearing, the Administrator may, for any period beginning after May 15, 1974, and ending not later than June 30, 1979, temporarily suspend any stationary source fuel or emission limitation as it applies to any person if the Administrator finds—

"(i) that such person will be unable to comply with such limitation solely because of the unavailability of types and amounts of fuels,

"(ii) that such suspension (in conjunction with interim requirements under subsection (b)) will not, after the applicable implementation plan deadline, result in or contribute to a level of air pollutants which is greater than that specified in a national primary ambient air quality standard, and

"(iii) that such person has been placed on a schedule which provides for the use of methods which the Administrator determines will assure continuing compliance with the stationary source fuel or emission limitation as soon as practicable (but no later than June 30, 1979), which schedule shall include increments of progress toward compliance with such limitation by such date.

"(B) (i) Any schedule under subparagraph (A) (iii) shall include a date by which a contractual obligation shall be entered into for an emission reduction system which has been determined by the Administrator to be adequately demonstrated (except that in the case of a person wishing to construct and install such system himself as soon as practicable, but not later than June 30, 1979, the Administrator may approve detailed plans and specifications and increments of progress for construction and installation of such a system). Before the earliest date on which a person is required to take any action under the preceding sentence (but not later than May 15, 1977) any source may elect to have the preceding sentence not apply to it; but if such election is made, no suspension under this section may apply to such source after May 15, 1977.

"(ii) For purposes of subparagraph (A) (ii) and of subsection (b), the term 'applicable implementation plan deadline' means the date on which (as of the date of enactment of the Energy Emergency Act) a national primary ambient air quality standard is required by an applicable implementation plan to be attained in an air quality control region.

"(C) Any person may obtain judicial review of a grant or denial of a suspension grant under this paragraph and of any interim requirement on which such suspension is conditioned under subsection (b) by filing a petition with the United States district court for any judicial district in which is located any stationary source to which the action of the Administrator applies. The second and third sentences of clause (ii), and clauses (iii) and (iv) of section 206(b) (2) (B) of this Act shall apply to judicial review under this paragraph. No proceeding under section 304(a) (2) may be commenced with respect to any action or failure to act under this paragraph.

"(3) In issuing any suspension under this subsection, the Administrator is authorized to act on his own motion without application by any source or State.

"(b) (1) Any suspension under subsection (a) shall be conditioned upon compliance with such interim requirements as the Administrator determines necessary for minimizing the threat to public health which may exist prior to the applicable implementation plan deadline and for assuring maintenance of the national primary ambient air quality standards during any portion of such suspension which may be authorized after the applicable implementation plan deadline. Such interim requirements and section 110 shall not be construed

to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national primary ambient air quality standards during the period of the suspension. Such interim requirements shall include, but not be limited to, (A) the source receiving the suspension comply with such monitoring and reporting requirements as the Administrator determines may be necessary to determine the effect on health or air quality of such suspension, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons; and (C) requirements that the suspension shall be inapplicable during any period during which fuels or emission reduction systems which would enable compliance with the suspended fuel or emission limitations are in fact available to that person (as determined by the Administrator). Such fuel shall not be required to be used if the Administrator determines that the costs of changes necessary to use such fuel during such period is unreasonable.

"(c) The Administrator may by rule establish priorities under which manufacturers of emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution.

"(d) The Administrator shall study, and report to Congress not later than March 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of scrubber technology (including projections respecting the time, cost, and number of units available) and the effects that scrubbers would have on the total environment and on supplies of fuel and electricity;

"(3) number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of scrubber technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities, analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of scrubber technology for nonsolid waste producing systems to sources which are least able to handle solid waste by-product, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring variance-receiving sources to monitor impact of variances on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (b) or a compliance schedule under subsection (a) (2)(A) (iii) (including any requirement under subsection (a) (2)(B) (i)). No State or political subdivision may require any person to use an emission reduction system for which priorities have been established under subsection (c) except in accordance with such priorities.

"(f) (1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a) to violate any requirement on which the suspension is conditioned pursuant to subsection (b).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for any person to fail to comply with a schedule of compliance under subsection (a) (2) (A) (iii) (including any requirement under subsection (a) (2) (B) (i)).

"(g) For purposes of this section:

"(1) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on or specification of the use of any fuel of any type or grade or pollution characteristic.

"(2) The term 'stationary source' has the same meaning as such term has under section 111(a) (3).

"(h) Beginning 60 days after the enactment of this section, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) Up-to-date findings on the emission reduction systems determined to be adequately demonstrated for the purposes of subsection (a) (2) (B).

"(2) A concise summary of progress reports which are required to be filed by any person operating under a suspension pursuant to subsection (a) (2). Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator as a condition for receiving the suspension.

"(3) Up-to-date findings on the impact of the suspensions granted upon—

"(A) applicable implementation plans, and

"(B) ambient air quality in areas where any person has received a suspension under subsection (a) (2) of this section."

(27) Page 22, strike out line 15, and all that follows down through line 14, on page 23, and insert in lieu thereof the following:

SEC. 202. IMPLEMENTATION PLAN REVISIONS.

(a) REVISIONS TO REFLECT SUSPENSIONS.—Section 110(a) of the Clean Air Act is amended—

(1) in paragraph (2) (B) by inserting before the semicolon at the end thereof ", and provisions for energy conservation measures"; and

(2) in paragraph (3), by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard which the plan implements within the deadlines established under paragraph (2) (A) of this subsection. In making such determination the Administrator shall consider any current or anticipated suspensions under section 119, any action under section 106(b), and any projected shortages of fuels or emission reduction systems. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision for portion thereof is disapproved or if a State fails to submit a plan revision, the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan (or portion thereof) not later than November 1, 1974."

(b) LIMITATION ON PARKING SURCHARGES.—Subsection (c) of section 110 of the Clean Air Act, as amended (42 U.S.C. 1857 C-5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C) respectively; and by adding the following new paragraph:

"(2) (A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 6 months after the enactment of this paragraph on the necessity of parking surcharge regulations in order to achieve national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with transportation. In the

course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge regulation may be promulgated by the Administrator under paragraph (1) of this subsection as a part of an implementation plan. All parking surcharge regulations previously promulgated by the Administrator shall be null and void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) For purposes of this paragraph, the terms 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles."

(28) Page 23, insert after line 14, the following:

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b)(1)(A) of such Act is amended by striking out "1975" and inserting in lieu thereof "1977".

(c) Section 202(b)(1)(B) of such Act is amended by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1976 shall contain standards which provide that emissions of such vehicles and engines may not exceed 3.1 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(d) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978".

(e) Section 202(b)(5)(A) and (B) of such Act are amended to read as follows:

"(5)(A) At any time after September 15, 1974 and before January 15, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed, by paragraph (1)(A)) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977.

"(B) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year of the effective date of any emission standard required by paragraph (1)(B) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1978. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(B)) to emissions of oxides of nitrogen from such vehicles and engines manufactured during the model year for which such sus-

pension is granted. Any manufacturer may request additional 1 year suspensions until model year 1983, beyond which no suspension may be granted. Each additional request for suspension shall be treated as a separate suspension decision."

(f) Paragraph (b) (5) (D) of section 202 of the Clean Air Act is amended by adding the following new sentence: "Notwithstanding the requirements of paragraphs (i) through (iv) of this paragraph, the Administrator shall grant any suspension requested pursuant to paragraph (5) (A) or (5) (B) of this paragraph if he determines that application of such standard would result in significant increase in fuel consumption for such vehicles and engines."

(g) Section 202(b) (5) (E) of the Clean Air Act is repealed.

(29) Page 23, strike out line 15, and all that follows down through line 6, on page 24, and insert in lieu thereof the following:

SEC. 204. CONFORMING AMENDMENTS.

(a) (1) Section 113(a) (3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof and by inserting after "hazardous emissions" the following: ", or 119(f) (relating to certain requirements during suspensions and priorities)."

(2) Section 113(b) (3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof "112(c), or 119(f)".

(3) Section 113(c) (1) (C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 113 of such Act is amended by inserting at the end thereof the following new subsection:

"(d) For the purpose of this section, the violation of any provision of an approved plan under section 106(b) of the Energy Emergency Act shall be deemed a violation of a 'requirement of an applicable implementation plan during any period of federally assumed enforcement'."

(5) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(f)" before "209".

(30) Page 24, strike out line 7, and all that follows down through line 9, on page 27, and insert in lieu thereof the following:

SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973 shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) (1) For the period beginning May 15, 1974, the Administrator of the Environmental Protection Agency may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and consultation with the Federal Energy Administrator, issue exchange orders to any person or persons requiring the exchange of any fuel subject to any allocation program under title I of this Act or such Act of 1973. The purpose of such exchange orders shall be to avoid or minimize the adverse impact of any such allocation on public health in those areas of the country designated by the Administrator of the Environmental Protection Agency under subsection (a). Such Administrator may issue an order under this subsection only if he finds that (A) substantial emission reductions will be afforded for one or more emission sources in areas designated under subsection (a), and (B) the costs and fuel availability impact of such order will not be excessive.

(2) Violation of any exchange order issued under paragraph (1) of this subsection shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of an energy conservation and rationing program under title I of this Act.

(c) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of \$2,000,000 is authorized to be appropriated for such a study.

(d) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a 6-month period (other than action taken pursuant to subsection (e) of this section), or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(e) Notwithstanding subsection (d) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York, and for any other facilities for the transmission of electric energy between a foreign country and the United States which the Federal Power Commission finds will be subject to adequate environmental review conducted by a State agency pursuant to State law.

(31) Page 27, strike out line 10, and all that follows down through line 9, on page 28, and insert in lieu thereof the following:

SEC. 206. ENERGY CONSERVATION STUDY.

The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(32) Page 28, strike out line 10, and all that follows down through line 13, on page 28, and insert in lieu thereof the following:

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

(33) Page 28, insert after line 13, the following:

SEC. 208. RECOMMENDATIONS FOR SITING OF ENERGY FACILITIES.

The President shall, within 90 days after the date of enactment of this Act, recommend to the Congress actions to be taken by the executive branch and the Congress regarding the problem of the siting of all types of energy producing facilities.

(34) Page 28, insert after line 13, the following:

SEC. 209. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"SEC. 213. (a) (1) The Administrator shall conduct a study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator shall consult with the Secretary of Transportation, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined by the Administrator for each manufacturer. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

(35) Amend the title so as to read:

A bill to assure, through energy conservation, end-use allocation of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes.

PURPOSE OF THE LEGISLATION

The purpose of this legislation is to grant specific temporary emergency powers to cope with the energy shortages which confront this nation so that essential needs may be met in a manner which is consistent with our national commitment to protect and improve the

environment. These authorities are to be implemented in a manner which provides for the maintenance of vital services necessary to health, safety and public welfare, while being conscious of the need to minimize any adverse impact on employment and to assure that all sectors of the economy are afforded equitable treatment.

In brief summary, the bill authorizes controls on end-uses of petroleum products, calls for proposals for mandatory energy conservation measures, contains provisions to increase supply of domestic oil production and directs steps to be taken to make more effective use of our nation's coal resources. Narrowly defined and limited variances from air quality requirements, together with measures which permit the relaxation of various procedural requirements which traditionally govern the exercise of governmental authority have been permitted to allow expeditious implementation of the powers set forth in the bill.

BASIS FOR THE LEGISLATION

Our nation is, at present, confronted with an energy emergency of unprecedented scope. Its dimensions are only now coming into sharp focus.

On September 29, 1973, this Committee reported to the House that the nation risked significant shortages in the coming winter. At that time, the Office of Oil and Gas of the Department of Interior was projecting a 10.4 percent increase over last winter in our requirements for distillate fuel oil. These rising distillate fuel needs, the Department concluded, simply could not be met without a very high level of imports to augment domestic production and refinery capacity. With normal winter temperatures, distillate imports of 650,000 barrels a day would be needed—assuming refineries will operate at 91.7 percent of capacity and distillate yields will be 22.4 percent of refinery runs of crude oil. In the opinion of the Department, "Colder weather or an inability of refineries to operate as anticipated could increase imports to over 800,000 barrels a day."

These projections must be compared with last winter's import levels of only 400,000 barrels a day. Without some curtailment in the demand for distillates, we were—only a few months ago—facing the need to increase imports by 250,000 barrels a day to get through a normal winter and as much as 400,000 barrels a day should we experience colder weather or a breakdown in refineries.

Other information and studies brought to the Committee's attention similarly portended grave shortages. These were of such magnitude that it was no longer reasonable to rely on a free market structure or voluntary programs to cope with the situation. Consequently, the Committee recommended to the House legislation to intervene in the market to order mandatory allocations of certain petroleum products. That legislation has now been signed into law and its implementation can be expected to provide some assurance that during times of shortage our priority needs will be met and that whatever limited supplies we have will be equitably distributed throughout the nation to meet regional needs and preserve competition in the marketplace. Recent events evidence that an even greater Governmental response will be required.

One month after this Committee reported to the House legislation to impose mandatory allocation controls, the situation severely

worsened. On October 17, 1973, Arab oil-producing nations, then engaged in armed conflict with Israel, initiated a program to curtail their collective crude oil production in an attempt to influence U.S. policy in the Middle East. Shortly thereafter a total embargo was imposed on shipments to the United States and steps were taken to prevent this nation from indirectly acquiring Arab produced crude oil or refined products derived from such production. Even before this, our nation had drawn down its primary inventories of gasoline, distillates and heavy fuel oil to a point which, on October 26, 1973, was reported to be 71 million barrels below normal. Also, crude oil stocks were 14 million barrels below normal levels for that date. In further exacerbation of the problem, the Arab countries reduced total production by 5 to 6 million barrels per day, resulting in world shortages of petroleum supplies, thus intensifying competition for non-Arab production in the international market.

The Committee believes that the need to take emergency actions to deal with the situation is clearly established. Over the next several months the American people will be called upon to make significant sacrifices: routine or normal life will be disrupted, the economy will be severely strained, and our governmental institutions will be subjected to their most severe peacetime test. In the final analysis, the success of our efforts will depend upon the fundamental soundness and native good sense of the American people and the abilities of those in government to rise to the situation and discharge their responsibilities with vigor, evenhandedness, imagination, and courage.

GRANT OF EMERGENCY AUTHORITIES

Faced with the emergency situation, on November 8, 1973, the President addressed the nation on the dimensions of the energy crisis. In that address he announced a number of administrative actions designed to provide some measure of short-term relief. Additional steps were clearly needed, however, and toward that end the President requested new legislative authority. In a departure from normal practice, the administration decided not to send a specific request for legislation to the Congress, announcing that the President preferred to work with the committees of the Congress on legislation already introduced which proposed to give to the executive a full spectrum of extraordinary powers to cope with the situation. The President did, however, list the following essentials to be included in emergency legislation:

- Authorize restrictions on both the public and private consumption of energy by such measures as limitations on essential uses of energy (office hours, for instance) and elimination of non-essential uses (decorative lighting, for example);

- Authorize the reduction to 50 miles per hour of speed limits on highways across the country;

- Authorize the exemption or granting of waivers of stationary sources from Federal and State air and water quality laws and regulations. Such actions would be taken through the Administrator of EPA.

- Authorize the exemption of steps taken under the proposed energy emergency act from the National Environmental Protection Act (NEPA).

Provide emergency powers for the Federal regulatory agencies involved in transportation to adjust the operations of air, rail, ship and motor carriers in a manner responsive to the need to conserve fuel.

Empower the Atomic Energy Commission to grant a temporary operating license of up to 18 months for nuclear power plants without holding a public hearing. Such actions would be subject to all safety and other requirements normally imposed by the Commission.

Authorize the initiation of full production in Naval Petroleum Reserve No. 1 (Elk Hills, California) and the exploration and further development of other Naval Petroleum Reserves, including Naval Petroleum Reserve No. 4 in Alaska.

Permit Daylight Saving Time to be established on a year-round basis.

And authorize the President, where practicable, to order a power plant or other installation to convert from the use of a fuel such as oil to another fuel such as coal and to make such equipment conversions as are necessary.

Several of the requested authorities lie within the jurisdictional realm of other committees and have not been included in the legislation which your committee reports for House consideration. Thus the requests for authority to initiate full production of the naval petroleum reserves and to permit the Atomic Energy Commission to grant temporary licenses pursuant to expedited proceedings were not considered by the Committee. Others of the requested powers which are within the jurisdictional reach of the Committee have been considered, found appropriate and are included in the reported bill. The Committee has not, however, granted to the President the requested authority to order restrictions on both the "public and private consumption of energy by such measures as limitations on essential uses of energy and elimination of nonessential uses." The Committee found this authority too ill defined, too pervasive.

The laws passed since the first declared national emergency in 1933 commonly transferred almost unlimited power to the Executive to permit government to act effectively in times of great crisis. A recently issued report of the Special Committee on the Termination of the National Emergency, United States Senate cataloged over 470 significant statutes which the Congress has passed since 1933 delegating to the President powers that had been "the prerogatives and responsibility of the Congress since the beginning of the republic".

Over the course of that forty-year period, the Congress has repeatedly been presented with the problem of finding a means by which a legislative body in democratic republic may extend extraordinary powers for use by the Executive during times of great crisis without imperiling our constitutional balance of liberty and authority. As yet, a fully satisfactory solution has not been discovered.

As noted in the Special Committee's report:

Most of the statutes pertaining to emergency powers were passed in times of extreme crisis. Bills drafted in the Executive Branch were sent to Congress by the President and, in the case of the most significant laws that are on the books, were approved with only the most perfunctory committee re-

view and virtually no consideration of their effect on civil liberties or the delicate structure of the U.S. Government of divided powers. . . . On occasion, legislative history shows that during the limited debates that did take place, a few, but very few, objections were raised by Senators and Congressmen that expressed serious concerns about the lack of provision for Congressional oversight.

Considered against this background, the Committee was reluctant to give to the President the unlimited authority to order restrictions on both public and private consumption of energy as had been requested. For several days the committee deliberated over means of conditioning or limiting this grant of authority. Proposals were made to permit the President to ban specific uses of energy such as outdoor advertising and decorative lighting. These efforts were eventually abandoned when it became more and more apparent that some Members of the Committee felt that such efforts unnecessarily and unwisely tied the President's hands in dealing with the situation, while other Members believed that the Committee should not authorize restrictions on specific uses without a full understanding (through the hearing process or otherwise) of the method of implementation and the social and economic impact of such restrictions. In the end, a majority of Members of the committee prevailed in deleting from the legislation under consideration the authority to impose transportation controls and other restrictions on public and private consumption. Instead the Committee decided to call for the submission of specific conservation plans which could then be subjected to the refinement of the legislative process.

FEDERAL ENERGY ADMINISTRATION

To exercise the authority granted under this legislation, the Committee has created a Federal Energy Administration to be directed by an administrator appointed by the President with the advice and consent of the Senate. In addition to its duties under this Act, the Administration is to exercise the authority provided for in the Emergency Petroleum Allocation Act of 1973 previously reported by this Committee and already enacted into law. In so doing the Committee proposes to parallel and give statutory force to the Federal Energy Administration created by executive order of the President on Tuesday, December 4, 1973.

The creation of this new administration to deal with the emergency fuels shortages is proposed on the premise that we must focus authority in a single agency head with decision-making responsibility for these programs. This agency is to operate within the Executive Department subject to the supervision of the President. Several trappings of independence, however, are given to the Administrator to assure that he may act consonant with the preeminence of his mission free from certain administrative controls which have been ingrafted on agency actions in the name of administrative efficiency. Thus, the Federal Energy Administration is relieved of the necessity of obtaining prior OMB clearance for information gathering activities. Also to assure that the administration will have high visibility in government, budget requests and legislative recommendations are to be transmitted to the Congress simultaneously with their submission to the Office of Man-

agement and Budget. In so doing the Committee seeks to assure that we will know without question or qualification what the Administrator determines to be his fiscal needs in carrying out his legislative assignment and what additional authority may be required to get the job done effectively and expeditiously.

In addition to the powers under the Emergency Petroleum Allocation Act of 1973 and as may be authorized under this Act, the President has proposed to transfer other functions of the Executive Department to the Federal Energy Administration so as to consolidate energy related activities. This the Committee has not attempted to do. It is understood that some of these proposed transfers, such as the transfer from the Department of Interior of its Office of Oil and Gas and the Outer Continental Shelf authority, require legislative approval. An appropriate bill has been submitted to the Congress and will be considered by the Government Operations Committees of the House and Senate. The Committee does not believe that the action which it has taken under this Act in any way impairs studied consideration of these proposals by the Government Operations Committee. Indeed, charts of organization of the Federal Energy Administration confirm that the Committee's proposal to act now to place the mandatory allocation program and the authority granted under this Act in an independent Federal Energy Administration is entirely consistent with the President's Executive Order and the proposed legislation now under consideration by the Government Operation's Committee.

SAFEGUARDS AGAINST UNREASONABLE DISCRIMINATIONS AND UNEQUITABLE TREATMENT

The authorities contained in this legislation and in the Emergency Petroleum Allocation Act of 1973, which it amends, call for a major intrusion into the competitive marketplace by the federal government. In allocating fuels so as to maintain essential services during times of shortage and to assure equitable distribution of supplies throughout the nation, decisions will be made which will impact on all sectors of the economy. Already actions have been taken which have produced dislocations and distortions in the competitive market which have impacted disproportionately on individual groups of competitors offering similar services. In part, this has been the unavoidable result of attempting to cope with a crisis situation without having first developed a decision-making structure which affords government an opportunity to appreciate the full ramifications of its actions. For example, there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as recreational activities or various aspects of general aviation) if to do so would result in significant unemployment. There are, of course, many areas in this nation where recreation and tourism provide the base of the local economy. Moreover, government must equip itself so as to be able to look beyond the immediately affected industry to discover the ripple effects of its action on other supportive and relative industry groupings.

Access to adequate supplies of fuels is basic to the survival of virtually every commercial enterprise and, accordingly, government must

act with great care to assure that its actions are equitable and do not unreasonably discriminate among users. The Committee has added a separate section to this legislation creating a statutory standard of reasonableness to be observed in the allocation of refined petroleum products and electrical energy among users or in taking actions which result in restrictions on use of such products and electrical energy. The Committee intends the term equitable to be applied in its broadest and most general sense. As such, the term denotes the spirit of fairness, justness, and right dealing. No user or class of users should be called upon during this shortage period to carry an unreasonably disproportionate share of the burden. This is fundamental to the traditional notion of fairness and equal protection. The Committee expects the President and the Administrator of the Federal Energy Administration created under this Act to assiduously observe these requirements in the conduct of their functions.

COMMITTEE CONSIDERATION

Realizing that the mandatory allocation authority would not alone be sufficient to deal with the worsening fuel shortage situation, Chairman Staggers joined with Senator Jackson in the introduction of legislation on October 28, 1973, which proposed to give to the President extraordinary powers to cope with the impending crisis. At the time the bill was introduced, both Senator Jackson and Chairman Staggers acknowledged that it was imperfect legislation.

It was thought, however, that the bill clearly set out the types of emergency powers which the Congress might consider granting to the President to augment his already existing authorities to deal with the fuel shortage situation. Most of these provisions were, in fact, requested by the President specifically in his address to the nation on November 8.

To expediate committee consideration of these proposals, Chairman Staggers convened the Full Interstate and Foreign Commerce Committee to begin hearings on the bill, H.R. 11031, on November 14, 1973. Witnesses in these proceedings were also asked to address their comments to the bill, H.R. 11450, which was introduced by Chairman Staggers the day before hearings commenced. This bill proposed also to equip the President with emergency powers for dealing with the crisis situation but was more limited in scope and more tempered by Congressional restrictions on how this power may be exercised. Eliminated from this bill were those matters in H.R. 11031 which sought to legislate in jurisdictional areas assigned to other committees. Six days of hearings were held on these legislative proposals.

Believing that H.R. 11450 embodied a more workable approach to the problem and one more likely to secure the support of the committee, Chairman Staggers moved its consideration instead of the bill, H.R. 11031, at the commencement of the Committee's markup of the legislation. The Full Committee met in markup of this bill for 7 days, including several afternoon and evening sessions. On December 7, the Committee ordered the bill, as amended, reported on a roll call vote of 24 yeas to 13 nays.

EXPLANATION OF SECTION-BY-SECTION AMENDMENTS

The Committee has not reported a committee amendment in the nature of a substitute for the text of the introduced bill, determining instead to amend the bill on a section-by-section basis. An explanation of the committee amendments follows:

TITLE I—EMERGENCY ENERGY AUTHORITIES

Section 101—Purpose

This section sets forth the purpose of the Act, which is to:

(a) call for proposals for measures which could be taken in order to conserve energy, and

(b) authorize specific temporary emergency measures which may be taken to assure that the nation's needs for fuels will be met.

It is intended that the implementation of these measures will be consistent with national environmental policy and that any adverse impact on employment will be minimized; that all sectors of the economy will be treated equitably; and that the public health and welfare will be protected.

Section 102—Definitions

The following terms are here defined for purposes of the Act: "State," "petroleum product," "United States," "Administrator."

The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product as defined in the Emergency Petroleum Allocation Act of 1973. In that Act, the term "refined petroleum product" is defined to mean "gasoline, kerosene, distillates (including Number 2 fuel oil), LPG, refined lubricating oils, or diesel fuel."

The term "Administrator" means the Administrator of the Federal Energy Administration which is created by section 104 of this Act.

Section 103—Amendments to the Emergency Petroleum Allocation Act of 1973

Subsection (a) amends section 4, the Mandatory Allocation section of the Emergency Petroleum Allocation Act of 1973, by the addition of new subsections 4(h), 4(i), and 4(j).

New subsection 4(h) authorizes the President to establish rules for the ordering of priorities among users of petroleum products and to assign to such users rights to obtain petroleum products in preference to those assigned a lower priority. Prior to this ordering of priorities and assignment of rights, the President must find that such action is necessary in order to carry out the objectives of subsection 4(b) of the Emergency Petroleum Allocation Act. (Subsection 4(b) is the section which defines the provisions which must be fulfilled by the regulation providing for the mandatory allocation of petroleum products.)

New subsection 4(h) specifies that, in the ordering of priorities among users, the maintenance of vital services is to be emphasized. Illustrative vital services are enumerated.

Allocations of products made pursuant to subsection 4(A) shall be adjusted by the President as necessary to assure that those who are

entitled to receive allotments will actually be permitted to obtain such allocated products.

The President is required to establish procedures whereby users may petition for review, reclassification, and modification of priorities and entitlements assigned in accordance with this subsection. These procedures may include procedures with respect to local boards.

The President is authorized to require refineries in the United States to adjust their operations with regard to the proportions of products produced in the refining process. These adjustments will be required as necessary to assure that the proportions produced are consistent with the objectives of the Mandatory Allocation Program set forth in section 4(b).

The President is required to consult with the Department of Labor with regard to the impact of energy shortages on unemployment. Should there be an indication that there is an increase of unemployment due to energy shortages, the President is urged to act to encourage full production by the energy industry at profit levels which will permit expansion and thus shorten the period of such high unemployment.

The definition of "allocation" as used in this subsection is clarified by stating that it "shall not be construed to exclude the end-use allocation of gasoline to individual consumers." Thus, the "Emergency Petroleum Allocation Act of 1973," as amended by the addition of this new subsection authorizes the President to ration gasoline.

New subsection 4(i) authorizes the President to require the production of crude oil at the maximum efficient rate of production (MER). He shall consult with the Department of the Interior and with State governments in order to determine which producers shall be so required. The maximum efficient rate referred to shall be as determined by the State in which the field is located. However, after consultation with such State or with the Department of the Interior, the President may set a higher rate if he determines that in doing so the ultimate recovery of crude oil and natural gas is not unreasonably impaired.

Existing and future development plans for the production of crude oil on Federal lands shall include or be amended to include provisions for the secondary recovery and, insofar as possible, the tertiary recovery of crude oil before the well is abandoned.

New subsection 4(j) provides that, notwithstanding any other provision of the Emergency Petroleum Allocation Act of 1973, or of any State or local law regarding fuel allocation, provision will be made for fuels for:

- (a) household moves of military personnel on orders;
- (b) household moves related to employment;
- (c) household moves rising from displacement due to unemployment;
- (d) household moves due to health or educational opportunities; and
- (e) household moves for any other good or sufficient reason.

Subsection 103(b) amends section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973. That Act, as passed, requires that the regulations for mandatory allocation provide for the "allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of explor-

ation for, and production or extraction of fuels and for required transportation related thereto." As amended, "minerals essential to the requirements of the United States" are incorporated in this objective.

Subsection 103(c) amends section 4(c)(3) of the Emergency Petroleum Allocation Act of 1973 by adding a provision which would require the President to require the adjustment in the allocations of petroleum under the Act to reflect unusual regional climatic variations which occurred prior to November 27, 1973. Thus, an unusually warm winter month in one area in 1973 would be considered in determining that area's heating oil for the same month in 1974 to avoid an unreasonably low allocation.

Subsection 103(d) amends the Emergency Petroleum Allocation Act of 1973 so as to continue the Mandatory Allocation Regulations promulgated thereunder in effect until May 15, 1975, instead of February 28, 1975.

Section 104—Federal Energy Administration

This section establishes a Federal Energy Administration. The Administration is to be headed by a Federal Energy Administrator appointed by and with the consent of the Senate who shall serve until May 15, 1975. The Administrator shall be responsible for the development and implementation of Mandatory Allocation Programs provided for in the Emergency Petroleum Allocation Act of 1973. Copies of Budget estimates and requests, legislative recommendations, testimony, or comments on legislation which are submitted to the President or to the Office of Management and Budget shall be concurrently transmitted to the Congress. The Administration shall be considered an independent regulatory agency for purposes of the collection of information and as such is exempt from Office of Management and Budget veto of its actions for the collection of necessary information.

Section 105—Energy Conservation Plans

Within 30 days the Federal Energy Administrator shall propose to Congress one or more energy conservation plans. These plans shall supplement actions taken under other laws to reduce energy consumption through the restriction of its public and private use. Such plans may include transportation controls or allocation plans. On receipt of these plans Congress will take appropriation action. It is specified that the proposed Energy conservation plans will provide for maintaining those vital services essential to the preservation of the public health and welfare. Proposed energy reductions must be equitably distributed through all sectors of the economy.

Section 106—Coal Conservation and Allocation

Under this section, the Administrator is granted the authority to direct the use of coal in major fuel burning installations which have the capability and necessary plant equipment to burn coal. This authority extends to existing electric power plants as well as industry fuel burning installations. It is to be exercised on a plant-by-plant basis.

The Committee believes that, in the reasoned administration of this authority, the Administrator should balance all relevant factors, including energy needs of the economy, public health and safety, environmental effects of fuel use, available facilities, adequacy and reliability of electric power supply, among others. He should consult

with all affected departments and agencies of government, including the Federal Power Commission in order to obtain the findings and recommendations of that agency covering matters within its administrative jurisdiction and expertise. The Committee contemplates that the physical conversion of electric generating facilities from petroleum or natural gas firing to coal firing will have implications respecting adequacy and reliability of bulk power supply, matters with the FPC's jurisdiction under the Federal Power Act, 16 U.S.C. 791 (a) *et seq.*

The Committee hearings indicate that in coastal and other regions of the Nation, the conversion of the major or large petroleum and natural gas fired fuel burning installations would assist materially in meeting the current demands upon natural gas and petroleum resources. As respects electric power plants, themselves a major user of petroleum and natural gas resources for boiler fuel purposes, the testimony shows the principal fuel burning plants likely to be affected by this section will be those electric power plants which once burned coal, but which have been converted to oil fuel in recent years to meet more stringent air pollution requirements, and which still retain the necessary coal handling facilities and appurtenances both inside and outside the plant, including necessary land for storage of coal. These include equipment such as unloaders, conveyors, pulverizers, scales, burners, soot blowers and special coal-burning instrumentation and controls. The latter are necessary not only to maintain dependable operation but to assure operational safety, since coal firing is often a much less stable operation than that obtainable with oil or gas. It is not intended, however, to imply that the absence of any one or combination of these facilities would be grounds for concluding that the facility lacked capability to convert to coal firing.

As shown in the Committee hearings, electric utilities have reported that within three weeks from the time conversion is started, approximately 13,000 megawatts of capacity normally burning oil or gas fuel could be converted to coal, with an indicated reduction in residual oil demand of about 105 million barrels per year or an average of 288,000 barrels per day. The required increase in coal consumption would be about 26 million tons per year.

The Federal Power Commission reported that there is a potential for an additional 75 million barrels of oil per year saving by reconvert-ing units which require re-establishment of major coal facilities and which could require up to a year or more for complete conversion. With all conversions completed, the annual savings in residual oil for electricity generation would be about 180 million barrels per year or almost 500 thousand barrels per day. The associated increase in coal consumption would be about 45 million tons per year, as compared to the present total production of coal of about 600 million tons per year.

Section 107—Regulated Carriers

Subsection (a) of this section provides that the Interstate Commerce Commission, the Civil Aeronautics Board and the Federal Maritime Commission, with respect to the carriers under their respective jurisdiction, may until May 15, 1975, take such actions as permitted under existing laws, for the purpose of conserving energy or reducing energy consumption.

In addition, subsection (b) authorizes the Interstate Commerce Commission to eliminate existing restrictions on common carriers which require excessive travel between points without interrupting essential service to affected communities.

Subsection (c) requires that within 60 days, the three affected regulatory agencies report to Congress on the need for additional regulatory authority in order to conserve fuel from the date of enactment through May 15, 1974.

Section 108—Delegation of Authority

This section authorizes the Administrator to delegate all or any of his functions under this Act or the Emergency Petroleum Allocation Act to any officer or employee of the Federal Energy Administration, to State officers, or State or local boards.

Section 109—Administration

Subsection (a)—Administrative Procedure

This section provides for the streamlining of administrative procedures for actions taken pursuant to this Act and the Emergency Petroleum Allocation Act, including the formulation of energy conservation plans.

Actions taken under title I of the bill and under the allocation exchange authority in section 205 are subject to special administrative procedure and judicial review provisions. Section 109 of the bill provides expedited administrative procedures for Federal actions. These same procedures would also apply to State actions unless the Federal Energy Administrator specified different but comparable procedures for the State. Included among the procedures are publication and notice and an opportunity for comment on agency rules and orders. All rules and orders issued by Federal and State agencies both under title I and under the new subsections (h) and (i) of section 4 of the Emergency Petroleum Allocation Act would be required to include provisions for making adjustments in hardship cases. Judicial review of rules issued under these provisions would be in the temporary emergency court of appeals which was created under the Economic Stabilization Act. Orders issued in individual cases would be reviewed first in the United States district court and then in the temporary emergency court of appeals.

The bill does not alter the judicial review provisions of the Clean Air Act. These would continue to apply to actions taken by the Administrator of EPA under that Act, including the amendments made to that Act by this bill.

Section 110—Prohibited Acts

This section states that the following acts are prohibited under this Act:

- (1) to deny full fillups of diesel fuel to trucks, unless a rationing program is in effect which restricts such full fillups to trucks or if the diesel fuel is not available for sale;
- (2) to violate any order concerning the use of coal as a primary energy source pursuant to section 106;

- (3) to violate export restrictions established under section 123;
- (4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117.

Section 111—Enforcement

This section provides for fines up to \$5,000 for each willful criminal violation of the Act, and civil penalties up to \$2,500 for the commission of acts prohibited under section 110.

The Attorney General is authorized by this section to obtain temporary restraining orders or preliminary injunctions against actual or impending violations of this Act. It also provides for the private injunction actions.

Section 112—Grants to States

This section authorizes grants to be made to States for the purposes of carrying out the duties obligated to them by the Administrator under section 109.

Section 113—Fair Marketing of Petroleum Products

This section amends the Emergency Petroleum Allocation Act of 1973 by adding a new section 8.

This new section 8 provides that no refiner may terminate a marketing agreement with an independent marketer without 90 days prior notice, explaining the reasons therefor and the remedies available to the marketer.

No termination shall be made unless the marketer has failed to comply with the terms of the contract or unless the refiner does not for 3 years after termination engage in the sale of petroleum products in the same relevant market area within which the terminated marketer operated.

Any marketer terminated by a refiner may file suit against such refiner in the appropriate district court, and be awarded damages resulting from the termination.

Section 114—Voluntary Energy Conservation Agreements

This Section provides that within fifteen days of enactment of this Act, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, shall promulgate standards and procedures for retail or service establishments to enter into voluntary agreements to limit operating hours, adjust retail-store delivery schedules and take such other action as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, determines to be necessary and appropriate to accomplish the objectives of this Act. As provided in subsection (C) of this section, actions in good faith which are taken by firms in conformity with this section to develop and implement a voluntary energy conservation agreements shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act or similar State statutes.

Subsection (b) provides that, among other standards and procedures promulgated by the President, there shall be provision for the filing of a copy of any agreement with the Attorney General and the Federal Trade Commission, which shall be available for public inspection. Meetings held to develop and implement a voluntary agreement shall permit attendance by interested persons, who shall be

afforded opportunity to make oral and written presentations, and such meetings shall be preceded by timely notice to the Attorney General, the Federal Trade Commission and the public. A summary of such meeting, along with any written presentation of interested persons, shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection.

Subsection (e) provides that no voluntary agreement under this section shall pertain to activities relating to marketing and distribution of crude oil, residual fuel oil or refined petroleum products, which are matters dealt with under Section 120 of this Act. Also, this section is limited to those voluntary agreements in which all members have 75 per cent of their annual sales not for resale and recognized as retail in the particular industry, as determined by the Attorney General.

Subsection (f) requires the Attorney General and the Federal Trade Commission to submit to Congress and the President at least once every six months a report on the impact on competition and on small business of agreements authorized by this section.

We recognize that any exemption from the antitrust laws should be based on a strong showing of need for companies to engage in conduct which would otherwise be in violation of those laws. This strong showing of need has continually been required by Congress in its consideration of proposals for exemption, reflecting a firm commitment to competition and free enterprise as the principal regulation of our economy. The Committee would expect that the Administrator acting together with the Attorney General and the Federal Trade Commission to assure that this section is not used to cloak with a veil of antitrust immunity conduct which cannot be demonstrated to be necessary and appropriate to the purposes of this Act.

As an alternative to antitrust immunity, there would appear to be opportunity on the part of federal, state and local governments to enact legislation which would mandate that stores be closed and delivery schedules be adjusted in cases where a showing can be made that energy would be conserved. In this way the interest of the public—the consumer as well as the retailer—would be represented through the government.

Section 115—Prohibitions on Unreasonable Allocation Regulations

This section requires that all actions taken pursuant to this Act and the Emergency Petroleum Allocation Act shall be equitable and not be arbitrary or capricious or make unreasonable discriminations among users.

Section 116—Use of Carpools

This section establishes an Office of Carpool Promotion within the Department of Transportation and directs the Secretary of Transportation to encourage the use of carpools by a variety of means, including financial incentives.

The sum of \$25 million is authorized for the purpose, to be allocated to the Federal Government and the States for the design and implementation of carpooling systems. The Secretary is required to report to Congress on the implementation of this section one year after the date of enactment.

This section further provides that, as an example to the Nation, Government use of economy vehicles be maximized and the use of

limousines be limited. Limousines are defined to mean Type 6 vehicles as identified in GSA regulations. These vehicles have the following characteristics: 5,500 pound curbweight, 8 cylinders, 200 net horsepower and a 450 cubic inch displacement. The Committee wishes to emphasize that the ban on limousines applies only to vehicles assigned for individual use. For example, it is not intended to bar the use of limousines by the Secret Service for protective purposes.

Section 117—Restrictions on Windfall Profits

This section amends the Emergency Petroleum Allocation Act by adding a new-subsection (k) which provides for restrictions on windfall profits. Under its terms, interested persons who believe established prices allow windfall profits may petition the Renegotiation Board. If, after reviewing testimony and evidence the Board finds that windfall profits are obtained, it shall establish a new sales price which prevents such profits or provide appropriate refunds in the case of individual firms found to have received windfall profits under established prices.

Section 118—Importation of Liquefied Natural Gas

This section amends the Emergency Petroleum Allocation Act of 1973 by adding a new section 8. This new section 8 provides for Presidential authorization of liquefied natural gas imports until the expiration of this Act.

Section 119—Development of Additional Electric Power Resources

This section requires the President to develop a plan for development of hydroelectric power, solar energy and geothermal resources.

Section 120—Antitrust Provisions

This section provides until May 15, 1975, for the establishment of voluntary agreements and plans of action to accomplish the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973. These will be subject to the approval of the Attorney General and the Federal Trade Commission. Actions taken in good faith to implement a voluntary agreement or carry out a plan of action shall not be construed to be within the prohibitions of the Federal antitrust laws, the Federal Trade Commission Act or similar state and local statutes. This section also provides for establishment of advisory committees to achieve the purposes of the Act.

Subsection (a) states that, except as specifically provided herein, no provision of the Act shall confer immunity from civil or criminal liability or create defenses under the antitrust laws, as defined in subsection (b).

Subsection (c) authorizes the Administrator to establish such advisory committees as he deems necessary to achieve the objectives of the Act. These committees are to provide such high-level information and advice to the Administrator as he may require to carry out his duties under the Act. They are separate and apart from voluntary agreements and plans of action which alone carry antitrust immunity for participants.

In addition to representatives of the public, it is envisioned that advisory committees may include representatives of the petroleum industry and of other supplying industries to it. In any case, of course, it is expected that a committee with industry members should be constituted the extent practicable to be representative of segments of

the industry affected. The committee meetings shall be open to the public; chaired by a regular full-time Federal employee; permit attendance by representatives of the Attorney General and the Federal Trade Commission after advance notice to them; and keep verbatim transcripts which shall be deposited with the Attorney General and the Federal Trade Commission and be available for public inspection in accordance with section 552 of title 5 of the United States Code, the Freedom of Information Act.

Subject to the approval of the Attorney General and the Federal Trade Commission, the Administrator shall, under subsection (d), promulgate rules, standards, and procedures to develop and implement those agreements and plans of action which the Administrator determines to be necessary to accomplish the objectives of section 4(d) of the Emergency Petroleum Allocation Act of 1973. The subsection limits eligibility for developers and signatories of voluntary agreements, and for participants in plans of action to implement them, to persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum products.

Under subsection (e) these standards and procedures shall be promulgated pursuant to section 553 of title 5 of the United States Code. Among other things, they shall provide that voluntary agreements and plans of action be developed by groups, including representatives of the public, to be chaired by a regular full-time Federal employee. Meetings to develop a voluntary agreement or plan of action shall be preceded by a notice containing the agenda to the Attorney General, the Federal Trade Commission, and the public in the affected community. Interested persons shall be permitted to attend and present their views.

Except as provided in subsection (e) (V), a complete transcript shall be kept of meetings to develop a voluntary agreement or plan of action. It shall be deposited with the Attorney General and the Federal Trade Commission and be available for public inspection in accordance with the provisions of the Freedom of Information Act. The exception is in the case of a meeting held for the sole purpose of developing voluntary agreements or plans of action to govern retail marketing or distribution of refined petroleum products. Here only a written summary of the proceedings of the meeting, with copies of written data, views, and arguments presented by interested persons, need be submitted to the Attorney General and Federal Trade Commission and be available for public inspection. This is intended to be a corollary to subsection (f), discussed below. It is envisioned that voluntary agreements or plans of action covering national or regional distribution of refined petroleum products may be developed and these, of course, would require a verbatim transcript. But it was felt that for meetings at a local level to develop retail distribution plans a summary report would provide adequate safeguards while cutting down on paperwork.

In subsection (e) the committee has concentrated on including safeguards to the public which shall be incorporated in standards and procedures promulgated by the Administrator for meetings to develop voluntary agreements or plans of action. It is not intended by this emphasis that the Administrator would lack authority to apply similar safeguards as to chairing of meetings, timely notice, agendas, and

transcripts to the equally important meetings *to implement* voluntary agreements and carry out plans of action. But the Administrator is intended to have flexibility to devise lesser requirements if the situation so indicates.

Thus subsection (f) permits the Administrator, upon approval of the Attorney General and the Federal Trade Commission, to exempt types or classes of meetings, conferences, or communications from the requirements of subsection (e), where they are determined to be necessary to implement any such agreement or plan of action. But such meetings, conferences, or communications are to take place under such rules, consistent with the purposes of this section, as may be prescribed by the Administrator and approved by the Attorney General and the Federal Trade Commission.

Subsection (g) provides that actions taken in good faith to develop or implement a voluntary agreement or plan of action shall not be construed to be within the prohibitions of the Federal Antitrust Laws, the Federal Trade Commission Act or similar state and local statutes. However, this antitrust exemption is strictly limited to actions taken in accordance with this section and the rules to be promulgated hereunder, and accorded only to participants who are engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product.

Under subsection (h) any voluntary agreement or plan of action must be submitted in writing to the Attorney General and the Federal Trade Commission at least ten days before being implemented and be available for public inspection in accordance with the Freedom of Information Act. The Attorney General or the Federal Trade Commission may modify, amend, disapprove or revoke any such voluntary agreement or plan of action, upon their own motion or upon the request of any interested person. Such action may be taken when the agreement or plan is first presented for approval or at any time thereafter when experiences under the operation of the agreement or plan dictate the need for the action. If an agreement or plan should be revoked, such action thereby withdraws prospectively the immunity conferred by subsection (g).

Subsection (i) requires the Attorney General and the Federal Trade Commission each to submit to the Congress and the President at least once each six months a report on the impact on competition and small business of actions authorized by this section. Subsection (j) terminates the authority granted by this section (including any immunity under subsection (g)) on December 31, 1974.

According to subsection (k), this section, effective on the date of enactment of this Act, shall supersede section 6(c) of the Emergency Petroleum Allocation Act of 1973 and shall apply to both Acts. Thus, all actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section. In any event, subsection (1) excludes section 708 of the Defense Production Act of 1950, as amended, from application to any action taken to implement the authority contained in this Act or the Emergency Petroleum Allocation Act of 1973.

Section 121—Comprehensive Review of Export and Foreign Investment Policies

This section provides that within 90 days of enactment of this Act, the Secretaries of the Interior and of Commerce shall prepare

and submit to Congress a comprehensive report on U.S. exports of energy sources and U.S. investments abroad in the production of petroleum and other energy sources. The purpose of this study is to identify any inconsistencies between national trade and foreign investment policies and domestic energy conservation efforts.

Section 122—Employment Impact and Worker Assistance

This section directs the President, in administering this Act, to minimize to the fullest extent practicable, any adverse impacts of such administration on employment. The President is required to report to the Congress within 60 days on the present and prospective impact of energy shortages upon employment, the adequacy of existing programs to deal with such impacts, and recommendations for legislation needed to adequately meet the needs of adversely affected workers.

Section 123—Exports

This section authorizes the Administrator to restrict exports of fuels and energy sources, including petrochemical feedstocks, under such terms as he deems appropriate, consistent with existing laws, and taking into account the historical trading relations of the United States with Canada and Mexico.

Sections 124—Report and Termination Date

This section requires the President to submit to Congress an interim report, no later than September 1, 1974, on the implementation of this Act and the Emergency Petroleum Allocation Act of 1973. Such report shall also include recommendations for amending or extending the authorities granted under these two Acts.

This section further provides that all authorities granted under Title I of this Act or under the Emergency Petroleum Allocation Act shall expire on May 15, 1975.

Section 201.—Suspension Authority

Section 119 of the Clean Air Act—Temporary Authority to Suspend Certain Stationary Source Emission and Fuel Limitations

This section would provide authority for the Administrator, before May 15, 1974, to temporarily suspend stationary source fuel or emission limitations under the Clean Air Act, based on a finding by the Administrator that fuels necessary for compliance with such limitations are unavailable. Stationary sources which receive such suspension would be exempt from local, State, or Federal procedural requirements, and such suspensions would be subject to judicial review only under special sections of the Administrative Procedure Act. The Committee has provided for these suspensions in recognition of the fact that the shortage of fuels generally (and of fuels of low pollution characteristics particularly) may make it impossible for many fuel burning stationary sources to comply with existing requirements under the State implementation plans. Many of these plans for sulfur dioxide control have, particularly in the short term, relied upon fuel sulfur limitations which would effect control more rapidly than emission limitations dependent upon stack gas cleaning.

This provision expands the Administrator's existing authority since it permits him to override certain State provisions of law and limits the State's enforcement of existing State air pollution restrictions. Suspension is not authorized, however, for mobile sources or for stationary sources, the emissions from which result from processes other than combustion of fuels. Moreover, since the Administrator's authority under section 119 only applies to State or Federal regulations which are part of an approved implementation plan, State or local emission limitations which are not part of an approved implementation plan may not be suspended.

Between May 15, 1974, and June 30, 1979, the Administrator, after public notice and public hearing, would also be empowered to temporarily suspend, upon application, or upon his own initiative, stationary source fuel or emission limitations, as defined in section 119 (g). Due to the need for prompt decisions on suspension applications, it is the intent of the Committee that such hearings be informal and legislative rather than adjudicatory in nature.

Three substantive conditions exist before a suspension beyond May 15, 1974, may be granted. First, fuel which would permit the source to comply with the applicable fuel or emission limitation must be unavailable to that source. Second, the suspension must not have the effect of delaying the presently existing deadline for attainment of any national primary ambient air quality standard specified in an approved implementation plan. Third, the source seeking the suspension must be subject to a compliance schedule which the Administrator has prescribed to bring the source into compliance with the fuel or emission limitation as soon as practicable, but in no event later than June 30, 1979.

The compliance schedule must lead to the use of methods which the Administrator of EPA determines will assure continuous conformity with the suspended limitation. In prescribing such a schedule, the Committee expects the Administrator to specify a date certain by which the affected source (1) must have entered into a contractual obligation to purchase and install an emission reduction system; or (2) must have detailed plans, specifications and deadlines for in-house construction and inflation of such a system. These plans, specifications and deadlines must have been approved by the Administrator. Alternatively a source may elect to seek a non-renewable suspension which may not extend beyond May 15, 1977. In this case, the source must provide assurance satisfactory to the Administrator that the method of compliance he proposes to use by such date will enable him to come into, and remain in, conformity thereafter. The Committee intends that the third option be permitted by the Administrator only upon a persuasive showing that the source has binding and enforceable rights (whether by lease, contract, or ownership) to sufficient quantities of low-polluting fuels (or other means) to insure long-term compliance.

The suspension procedure under section 119 would, therefore, permit sources to be placed on compliance schedules until as late as 1979 if earlier compliance is impracticable, whereas under the existing section 110, such schedules for any source may not extend beyond 1977.

As with suspensions under section 119(a)(1), section 119(a)(2) only applies to sources which have limitations imposed on them

as part of an approved plan, and sources not included in a plan would not be eligible. This section would not affect the authority of a State to prevent the construction of new sources or to close down existing sources if it so chose. The basic intent of the Committee was to permit certain sources, which will be unable to comply with implementation plan requirements as originally anticipated because of the shortage of fuels, to have additional time to install emission reduction equipment or adopt other methods of permanent emission reduction consistent with the present statutory mandate to achieve the national primary ambient air quality standards by 1975 (or 1977 if a section 110(e) extension has been granted)

The Committee recognizes the technical difficulties and uncertainties associated with determining whether the effect of any suspension for a source will be to cause or contribute to air quality which exceeds the national primary ambient air quality standards. In light of this recognition, the Committee believes that in any judicial review proceeding reviewing a grant or denial of suspension great weight should be given the technical judgment of the Administrator. In making a determination for a particular source, the Administrator should consider the effect on air quality not only if the suspension directly at issue, but also the effect of other suspensions which he has granted or which have been applied for in the same geographic area. In some cases, sources which might meet the requirements for a suspension if they were the only applicants might have to be turned down because emissions for other sources requesting suspensions would cause ambient air quality to exceed the primary standard.

Notwithstanding any requirement that a source which has received a suspension under section 119(a) (2) switch to the use of clean fuels, any source which has been placed on a schedule to achieve ultimate compliance by means other than clean fuels shall continue to be bound by any such schedule and increments of progress included therein.

Subparagraph (C) of the new section 119(a) (2) of the Clean Air Act provides for judicial review of the granting or denial of suspension requests in the United States District Court where the source is located. The section makes clear that actions approving or denying suspension requests are not to be considered nondiscretionary acts subject to citizen suit under section 304 of the Act.

Subsection (b) of the new section 119 requires that the Administrator condition any suspension on compliance with interim requirements necessary to minimize any adverse effect on the public health during any period prior to the date specified in the applicable implementation plan for attainment of the national primary ambient air quality standard, and to assure the maintenance of such standard after such date. One specific requirement is that the suspension will not apply for any period when the Administrator determines that the source can switch to low pollution fuels to comply with the emission requirement which has been suspended, without the source incurring unreasonable costs as a result of the change.

The section further authorizes the Administrator to require sources receiving suspensions to do such monitoring of ambient air and make such reports as might be necessary to determine the air quality impact of the suspension. Interim measures would also be expected to include necessary actions to avoid an imminent and substantial endangerment

to the health of persons. Although the Committee expects the Administrator to impose interim measures wherever possible, the Committee understands that the imposition of such measures may not always be possible. It is not intended that the lack of practicable interim measures would preclude the granting of a suspension if the facts otherwise warrant. Similarly, it is understood that ambient air quality monitoring will not be necessary in cases where adequate ambient air monitoring systems already exist.

Section 119(b) also authorizes the use of intermittent or alternative control measures as an interim compliance strategy during the suspension. This subsection provides that neither alternative or intermittent control prohibitions in applicable implementation plans promulgated by States or EPA, nor interim requirements under this subsection shall be construed to preclude the use of such measures by any source during any period of suspension of plan requirements for that source. Such measures are authorized to be used, however, only to the extent the Administrator of EPA determines that these measures are reliable and enforceable and will permit attainment and maintenance of the national primary ambient air quality standards during the pendency of the suspension.

The Administrator must determine, moreover, not only that such techniques are reliable and enforceable in theory, but also that they will be reliable in fact. In particular cases, this may require specific and legally enforceable conditions to be imposed concerning such matters as the design and operation of monitoring systems. As with all interim requirements, should necessary fuels become available, the source must utilize such fuel even though it has adopted intermittent or alternative control measures.

Subsection (c) of section 119 would authorize the Administrator to establish priorities under which emission reduction system manufacturers would be required to supply their systems to purchasers. Since supplies of necessary emission reduction systems may be limited by production capacities, the Committee believes it is necessary to allocate supplies to the sources in areas where air quality is poorest.

Section 119(d) requires the Administrator to study, and to report to the Congress by March 31, 1974, with respect to the availability of and demands upon fuels and certain emission reduction systems, alternative control systems, the impacts of fuel shortages upon air quality, including plans for air quality monitoring, and the effects of sulfur scrubbing technology upon the environment and fuel and electricity supplies.

In addition, the study and report would be required to focus on alternative control strategies for attainment and maintenance of national ambient air quality standards for sulfur oxides, including considerations of costs, timing, feasibility, and effectiveness. The Committee recognizes the possibility that the Act's objectives can be achieved through measures other than fuel regulations and constant emission limitations, but believes that there are many uncertainties involved with such other measures which must be thoroughly explored before they are relied upon as ultimate compliance strategies.

The required report would advise the Congress regarding total environmental consequences of actions under this section, in order that appropriate trade-offs may be considered in the administration of the Act and in formulating future legislation.

Suspensions by the Administrator under this section would have the effect under subsection (e) of preempting State or local requirements respecting suspended fuel or emissions limitations applicable to the emission of the specified pollutant from the source receiving the suspension, unless such State or local requirements are identical to Federal requirements.

Subsection (f) of section 119 proscribes conduct in violation of requirements of this section and, in conjunction with the conforming amendments of section 204 of the Energy Emergency Act, makes these requirements enforceable under section 113 of the Clean Air Act.

Subsection (h) of new section 119 requires the Administrator, 60 days after enactment, and at no less than 180 day intervals thereafter, to publish certain information concerning the implementation of the Act, i.e., findings on adequately demonstrated emission reduction systems, summaries of status reports filed by persons granted suspensions, and findings on the impact of suspensions on State implementation plans and ambient air quality possibly affected by such suspensions.

This amendment to subsection (a) of section 110 does not affect sections 110 (e) and (f) of the Clean Air Act regarding extensions and postponement. Where a revision is required, subsequent to the Administrator's study, up to a two-year extension (but not beyond July 31, 1977) may be authorized for any region under section 110(e) to permit imposition of additional or more stringent measures which have now become necessary to achieve the standards. A one-year postponement of any requirement of an implementation plan may also be available for any source under section 110(f). It is not intended, however, that the addition of section 119, although it permits suspension of compliance with emission or fuel limitations beyond 1977, in any way authorizes postponement of the mandatory attainment dates set forth in section 110 beyond the last date permitted by the Act, as in effect prior to these amendments.

Section 202.—Implementation Plan Revisions

Section 202 of the Energy Emergency Act would amend section 110 of the Clean Air Act to provide for a reassessment of all State implementation plans by the Administrator to determine the impact of current fuel shortages, shortages of emission reduction systems, any suspensions granted or anticipated under section 119 and any orders under section 106(b) of the Energy Emergency Act. Many plans rely on the use of fuels or control equipment which may not in fact now be available. The purpose of this amendment is to provide the Administrator of EPA with authority and to charge him with the duty to disapprove a plan which cannot in fact be implemented. At least one United States Court of Appeals (*Appalachian Power Co. et al. v. EPA*, 477 F.2d 495 (4th Cir. 1973)), in interpreting the Clean Air Act, has stated that the Administrator should disapprove State plans which are not practical and reasonably likely to achieve the goals of the plan, i.e., which are economically or technologically infeasible, and this amendment makes such authority explicit.

If, after his study is completed, the Administrator determines that a plan is not workable (taking into account the aggregate impact of all plans and plan revisions), he is to disapprove such plan and require a revised plan from the State which contains measures that will accomplish the goals of the Act and which can be implemented. There-

after, he must either approve the revised State plans or propose and promulgate appropriate regulations if the State fails to submit an approvable plan revision. The Committee is aware that the Administrator's order of revision cannot compel a State to revise State regulations insofar as they derive their authority from State law. However, it is the hope of the Committee that States will respond appropriately to the current shortages and adjust their regulations to create effective plans for timely attainment and maintenance of the national ambient air quality standards.

Section 202 of the Energy Emergency Act also amends section 110(c) of the Clean Air Act to prevent the Environmental Protection Agency from imposing or requiring the imposition of any charges on parking spaces. The amendment requires the Administrator to conduct a study and submit a report to this committee and to the appropriate committee of the Senate, within 6 months of enactment, on the merits and demerits of such measures in reducing air pollution, on the other positive and negative effects of such measures, on the availability of other means of reducing vehicle miles traveled, and on the effect of such measures on other programs dealing with transportation. The Administrator must consult with other Federal agencies in the course of the study. The amendment applies only to measures promulgated by the Administrator, and does not affect the right of any State to propose, adopt, and enforce such measures as part of an implementation plan under the Clean Air Act, or of the Administrator to approve such a State-submitted plan.

In the six weeks preceding issuance of this report, the Environmental Protection Agency promulgated or approved transportation control plans for approximately forty urban areas designed to reduce automobile-caused air pollution. In a significant number of these regions, reduction in automobile vehicle miles traveled (VMT) is necessary to attain the ambient air quality standards.

The Committee recognizes that some State and local governments may favor parking fees as a means of reducing VMT or supporting mass transit and does not intend to restrict their freedom to submit such measures or the authority of the Administrator to approve them if they are so submitted. However, the Committee believes that no such fees should be required or imposed by EPA and that such fees should be permitted to be required by EPA only after proper study by the Agency and affirmative action by the Congress.

Section 203.—Motor Vehicle Emissions

As amended in 1970, the Clean Air Act required new light duty motor vehicles manufactured in model year 1975 to reduce emissions of hydrocarbons and carbon monoxide by at least 90 percent from emissions of 1970 vehicles; 1976 model year vehicles were to reduce emissions of nitrogen oxides by 90 percent from comparable 1971 motor vehicles which had no emission controls. The only provision for relaxing these requirements is contained in section 202(b)(5) which permits the Administrator of the Environmental Protection Agency to suspend such requirements for one year only, if he determines, after public hearing, that certain conditions are met. It also requires him to establish interim emission standards applicable during that year.

Automobile manufacturers requested suspension of both the 1975 hydrocarbon and carbon monoxide standards and the 1976 nitrogen oxides standard. In both cases, the Administrator granted the suspensions and imposed interim standards which, while less stringent than the statutory requirements, required significant emission reductions.

This amendment revises the statutory scheme of mandatory emission limitations to reflect (1) the past actions of the Administrator and (2) the Committee's desire to strike a balance between continued development of a clean automobile engine and the technological problems associated with achieving that goal, particularly during a period of critical fuel shortage. The amendment ratifies the Administrator's interim carbon monoxide and hydrocarbon standards for 1975 but continues such standards through 1976. The 90 percent reduction which was to be required by 1976 would be deferred until model year 1977 vehicles. The Administrator would be authorized to suspend the 90 percent standard for one year. Under test procedures prescribed for model year 1975, the standards will be 15 grams per mile for carbon monoxide and 1.5 grams per mile for hydrocarbons for 1975 and 1976 in all states except California.

In setting interim standards, the Administrator established more stringent requirements for 1975 model year vehicles sold in California by promulgating a 9 grams per mile carbon monoxide standard and approving a waiver of Federal preemption, pursuant to section 209(b) of the Act to permit a standard of .9 grams per mile for hydrocarbons to be the applicable standard in that state. This amendment would preserve those more stringent California limitations in 1975 and 1976. The 1977 standards, hydrocarbon and carbon monoxide mandated by this section would require a 90 percent reduction and, under test procedures currently in effect, will limit emissions to 3.4 grams per mile of carbon monoxide and .41 grams per mile of hydrocarbons.

For emissions of oxides of nitrogen, the amendment would make the 1974 and 1975 emission standard of 3.1 grams per mile applicable to 1976 model year vehicles. In 1977, new motor vehicles would be required to reduce emissions to 2.0 grams per mile, which is the interim standard promulgated by the Administrator and which would have been applicable to 1976 model year vehicles. The California standard would be 2.0 grams per mile in both years since the Administrator has granted California a waiver of the Federal preemption for nitrogen oxides emissions for 1975 model year vehicles and 2.0 grams per mile is the present 1976 standard in California. The present statutory requirement of 90 percent reduction, which would be .4 grams per mile, will not be required until 1978 model year vehicles. However, the Administrator is authorized to grant five one-year suspensions of such standard *i.e.*, until as late as 1983 model year vehicles. Each such suspension, however, would have to be applied for separately and be based on a separate decision for each year.

This does not affect the authority of California to establish more stringent emission limitations than those established by this amendment. Nor does it preclude any state or locality from also requiring, as part of an implementation plan, that vehicles meeting the more stringent California standards be used as taxis or fleet vehicles in heavily polluted areas.

The suspension provisions of section 202 have also been modified to reflect the revised statutorily mandated standards. Any application for suspension of the 1977 carbon monoxide or hydrocarbon standard could be requested after September 15, 1974, but no later than January 15, 1975. It is the intent of the Committee to insure that the request is not made so far in advance of the 1977 model year that accurate data is not yet available, but also to insure that the decision is rendered by the Administrator in time to permit sufficient lead-time for the automobile manufacturers to adjust production to respond to the decision on suspension of the 1977 standard. A suspension of the 1978 oxides of nitrogen standard could be requested at any time after January 1, 1975. It is the intent of the Committee that such requests not be made earlier than approximately two and one half years prior to the time for first production of the model year. Because these amendments permit a sequence of suspensions of the nitrogen oxides standard for one year, section 202(b) (5) (E) of the Clean Air Act, which imposed a one-year limitation overall, is repealed by this amendment.

In recognition of the serious energy shortage now facing the nation, which may continue to exist for some time, the criteria to be reviewed by the Administrator, in making his decision whether to suspend the statutory emission standards, have been amended to include consideration of any significant increase in fuel consumption which would be caused by requiring vehicles to meet such standards. The amendment as adopted would require the Administrator to grant the suspension where he finds that a substantial fuel penalty would be associated with the decrease in emissions, regardless of his determination with respect to the other four specified criteria. The Committee recognizes, however, that a requirement of good faith efforts to achieve fuel economy improvements and to achieve emission reductions in the least fuel-costly way is implicit in this amendment. Otherwise a manufacturer could obtain a suspension at will simply by choosing the least efficient emission reduction device or by making no efforts to improve fuel economy as well as reducing emissions. The Committee also emphasizes that the Administrator must determine that the effect on fuel consumption will be "significant" in order to grant suspension. The fact that an insignificant decrease in fuel economy will occur will not be sufficient to override the positive health benefit of reducing emissions.

This Committee's limited departure from its firm commitment in the Clean Air Amendments of 1970 to achieving clean, healthy air for this nation's citizens to breathe has been undertaken only after numerous days of hearing and thorough deliberation. Significant strides have been made in response to Congress' 1970 mandate, and for this reason, the Committee has retained the approach of statutorily established emission limitations. There were proposals made to freeze the emission standards at lower levels and for longer periods of time. One proposal was to limit emissions at 1974 levels for three years; this approach, however, was rejected by the subcommittee and the Committee. The Committee remains convinced that the 90 percent reductions can be achieved reasonably soon and believes that the present emergency has compelled this small detour to avoid any possible exacerbation of the fuel problem.

Furthermore, it is the desire of the Committee that automobile manufacturers place substantial emphasis on achieving the emission

standards with motor vehicles which will have increased fuel economy. This desire is reflected in the section of this bill which mandates increased research and study on the question of fuel economy. Manufacturers should consider whether basic transportation needs can be met with smaller, lighter vehicles, or vehicles which have less fuel consuming accessories such as air conditioning and automatic transmissions. Control of emissions and conservation of fuel require reassessment of the design of present day automobiles.

Section 205.—Protection of Public Health and Environment

The section provides that end use allocation and conservation programs in title I of the Act or in the Emergency Petroleum Allocation Act of 1973 shall provide for allocation of low sulfur fuels to areas of the country designated by the Administrator of EPA as requiring low sulfur fuel to avoid or minimize adverse public health impact. This serves to highlight the public health protection emphasis intended by the Committee.

In addition, the section empowers the Administrator of EPA, after consulting with the Federal Energy Administration, to issue exchange orders requiring exchange of fuels subject to allocation or rationing, in order to protect public health. It is the Committee's intent that, to the maximum extent practicable, environmental considerations be considered in the initial allocation so as to minimize the necessity for subsequent exchange orders. Exchange orders would be based upon findings by the Administrator that substantial emission reductions would be accomplished and that costs and fuel availability impacts would not be excessive. The violation of an exchange order would be a prohibited act subject to the enforcement provisions of the Act. The Committee anticipates that EPA will cooperate closely with the FEA to prevent issuance of inconsistent policy directives and to limit multiplicity of allocation and exchange orders.

The Department of Health, Education, and Welfare and the Environmental Protection Agency would be directed to cooperatively conduct a study of acute and chronic public health effects of sulfur oxides conversions. An authorization of \$2,000,000 for the study is provided.

The section defines the relationship of major actions taken under the Act to the National Environmental Policy Act of 1969 (NEPA). For a period of 1 year after initiation of any action under the Act, such an action would be exempted from NEPA. If such an action will have significant impact on the environment, however, an environmental evaluation would have to be prepared and, if practicable, circulated to appropriate Federal, State, and local agencies. A 30-day period for public comment and opportunity for public hearing on the evaluation to review major environmental issues would also be required. Actions under the Act other than those under subsection (e) of this section which would be in effect more than 6 months or extensions resulting in a total duration of more than one year would be subject to NEPA requirements.

The Committee favors efforts to obtain hydroelectric energy imports to offset the effects of petroleum products upon production of electricity. Accordingly, the bill would direct the Federal Power Commission to issue a Presidential permit for construction, operation, maintenance, and connection of facilities at the United States borders for

transmitting electric energy between Canada and New York. This permit would be issued without preparation of an environmental impact statement under NEPA, and this exemption would extend to other facilities for transmitting electric energy between a foreign country and the United States, where the FPC finds that adequate environmental review will be performed by a state agency under state law.

Section 206.—Energy Conservation Study

This section directs the Federal Energy Administration to conduct a study on energy conservation methods and to report the results to the Congress within six months of enactment. The study must address the energy conservation potential of restrictions on export of fuels and energy-intensive products (including balance of payments and foreign relations implications); federally sponsored incentives for public transit use and Federal authority to increase public transit facilities; alternative requirements, incentives, or disincentives for increasing recycling and resource recovery to reduce demands on energy (including a comparison of the economic and fuel impacts of such recycling and resource recovery with the transportation and use of virgin materials); the costs and benefits of electrifying high traffic rail lines; and means for incentives or disincentives to decrease industrial use of energy.

Section 207.—Reports

The Administrator of the Environmental Protection Agency would be required by this section to report to the Congress by January 31, 1975, on the implementation of sections 201-205 of this title.

Section 208.—Recommendations for siting of energy facilities

The bill would direct the President, within 90 days following enactment, to recommend to the Congress actions to be taken by the Executive and the Congress regarding siting of energy producing facilities.

Section 209.—Fuel economy study

Section 209 of the Energy Emergency Act amends the Clean Air Act by redesignating section 213 as section 214 and adding a new section 213. The new section directs the Administrator of EPA to conduct a study of the feasibility of establishing a fuel economy improvement standard of 20% for 1980 and subsequent model year new motor vehicles. A report on the study is to be submitted to the Congress within 120 days after enactment, and the Administrator is directed to consult with designated Federal agencies in the course of the performance of the study.

The Committee was interested in the information provided by various witnesses as to the reasons for a steady decline in miles per gallon of gasoline from new vehicles over recent years. While emission controls undoubtedly have accounted for some of this decline, there seems to be little doubt that other factors such as the weight of vehicles and certain accessories such as air conditioning have as great or greater impact on vehicle fuel efficiency. Since these items are for convenience and/or comfort rather than necessary for protection of the public health, it is important, particularly in view of the need to use energy wisely, to closely and carefully examine the possibility of Federal legislation to prevent the unnecessary consumption of fuel in our automobiles.

Accordingly, this section directs the Administrator to fully examine the problems associated with obtaining a 20% improvement in fuel economy. The study is to include technological problems, costs, relation to safety and emission standards as well as energy impact and enforcement. The environmental benefit possible from this type of action as well as the information presently in the possession of the EPA as a result of related activities makes that agency the most appropriate to undertake this type of activity. The agency would be authorized to obtain information for the study under its section 307(a) powers.

COST ESTIMATES

In accordance with section 252(A) of the Legislative Reorganization Act of 1970 (Public Law 91-150, 91st Congress), the Committee provides the following estimate of cost:

Fiscal year:	Millions of dollars
1974 -----	\$55
1975 -----	185

Except for administrative functions of the Environmental Protection Agency authorities under this act terminate on May 15, 1975.

AGENCY REPORTS

Following normal procedure, the committee requested agency views on the bills H.R. 11031 and H.R. 11450. The following agency comments have been received in response to that request:

FEDERAL MARITIME COMMISSION,
Washington, D.C., November 20, 1973.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This refers to H.R. 11031 and H.R. 11202, both of which would authorize the President to take specific actions designed to meet the growing energy shortages now facing this nation.

During the hearings before your Committee on November 4, 1973, I recommended certain revisions to section 203(b) of H.R. 11031, which provides that additional authorities be conferred on the transportation regulatory agencies in order to conserve fuel. A suggested rewrite of said section 203(b) was attached to my prepared statement as Appendix A. The Chairman of the Interstate Commerce Commission also submitted a proposed rewrite of this section.

I have reviewed the Interstate Commerce Commission proposal. I believe that with several minor revisions the ICC draft would be acceptable to the Federal Maritime Commission—in fact, we would prefer it to the one attached to my statement.

The first revision which I would propose would be the inclusion of the Intercoastal Shipping Act, 1933, in subsection 1, since much of the Commission's jurisdiction over carriers in the domestic offshore trades stems from that statute.

The second revision would authorize the FMC to impose upon non-regulated carriers by water in the foreign and domestic offshore trades, the same type of fuel conserving restraints, rules and regulations that

the bill would authorize with respect to carriers subject to FMC jurisdiction.

The third revision would be to change the proposed penalty for violations from criminal to civil and to authorize the respective regulatory agencies to assess the penalty. This would relieve the already overburdened courts of the additional burdens attendant to the prosecution of violations. This would also provide the regulatory agencies with a more effective enforcement tool. Use of civil monetary penalties is consistent with the recommendations of Professor Harvey J. Goldschmid, Associate Professor of Law, Columbia University School of Law, as contained in a report prepared for the Administrative Conference of the United States entitled "An Evaluation of the Present and Potential Use of Civil Monetary Penalties as a Sanction by Federal Administrative Agencies."

With the foregoing revisions the FMC endorses the ICC draft. I am enclosing a copy of the ICC proposed section 203(b) with the above revisions. I urge that your Committee adopt this language in any measure reported out so that the transportation regulatory agencies will be clocked with adequate authority to contribute to energy conservation to the utmost.

I will be happy to furnish any additional information which you may wish.

Sincerely,

HELEM DELICH BENTLEY, *Chairman.*

APPENDIX A

(b) (1) The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission for the duration of the energy emergency, in addition to their existing powers and notwithstanding any provisions to the contrary in the Interstate Commerce Act, as amended, Federal Aviation Act, as amended, the Shipping Act 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended, respectively, shall have the authority on their own motion or by motion of any interested person, to review, modify, suspend or otherwise adjust a carrier's operations and the services performed thereunder, in order to conserve fuel while providing for the public convenience and necessity. This authority includes but is not limited to revising the manner and the level of operations, altering routes, territories or points served, shortening distances traveled, and reviewing and revising the rates, fares or charges of such carrier. Actions taken pursuant to this paragraph may be taken in accordance with section 553 of Title 5 of the United States Code, and without the procedural requirement of 42 U.S.C. 4321 *et seq.* Any person adversely affected by an action shall be entitled to judicial review of such action in accordance with Chapter 7 of Title 5 of the United States Code.

Consistent with the purposes of this Act, the Interstate Commerce Commission may impose upon the various categories of nonregulated carriage under the Interstate Commerce Act fuel conserving restraints, rules and regulations, comparable to those adopted pursuant to this Act to limit the service of the carriers subject to its jurisdiction, and the Federal Maritime Commission may impose upon non-regulated

carriers by water operating in the foreign and domestic offshore commerce of the United States fuel conserving restraints, rules and regulations of the type it is authorized to issue pursuant to this Act to limit the service of the carriers subject to its jurisdiction.

(2) Whoever violates any order, rule or regulation issued pursuant to section 203(b) of this Act, shall be subject to a civil penalty not to exceed \$1000 for each day such violation continues, said penalty to be assessed by the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board, as appropriate.

FEDERAL MARITIME COMMISSION,
Washington, D.C., November 29, 1973.

HON. HARLEY O. STAGGERS,

Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Federal Maritime Commission on H.R. 11450, the National Emergency Act.

This legislation would authorize the President to take certain actions as specified therein designed to assure that the energy needs of the United States are met during the continuing crisis.

I will not address the Committee to the need for such legislation that need has only too clearly been demonstrated. Section 106, with which this Commission is directly concerned, would authorize the Civil Aeronautics Board, the Interstate Commerce Commission and the Federal Maritime Commission, from the date of enactment until December 31, 1974, "to take any action on its own motion or on the petition of the President which existing law permits such Commission or Board to take upon the motion or petition of any regulated or other person for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board."

The bill further provides that within 15 days of enactment such regulatory agencies shall report to the appropriate Congressional Committees on the need for additional authority for fuel conservation during the energy emergency.

Such report must identify with specificity:

1. The type of regulatory authority needed.
2. The reasons why such authority is needed.
3. The probable impact on fuel conservation of such authority.
4. The probable effect on the public convenience and necessity of such authority.
5. The competitive impact, if any, of such authority.

As I stated in my letter to you dated November 20, 1973, regarding H.R. 11031 and H.R. 11202 there are certain provisions which we believe should be contained in the energy bill reported out by your Committee which will enable this Commission to be an effective instrument in the conservation of fuel. It is our belief that the suggested revision of the Interstate Commerce Commission proposed amendment to H.R. 11031, as set forth in the enclosure to that letter should be adopted by your Committee.

I will be happy to furnish any additional information which you may wish on this or any other energy related bill.

Sincerely,

HELEN DELICII BENTLEY, *Chairman.*

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., November 27, 1973.

HON. HARLEY O. STAGGERS,

Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. STAGGERS: This will acknowledge receipt of a carbon copy of a letter dated November 20, 1973, dealing with pending legislation on the national energy crisis, directed to you by Mrs. Helen Delich Bentley, Chairman of the Federal Maritime Commission.

After reviewing Mrs. Bentley's suggested revisions, I would have no objection to revising section 203(b) of H.R. 11031 along the lines of the attachment to Mrs. Bentley's letter.

If I can be of additional assistance, please let me know.

Sincerely yours,

GEORGE M. STAFFORD, *Chairman.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

AN ACT to authorize and require the President of the United States to allocate crude oil, residual fuel oil, and refined petroleum products to deal with existing or imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety, or welfare; to provide for the delegation of authority; and for other purposes

* * * * *

MANDATORY ALLOCATION

SEC. 4. (a) Not later than fifteen days after the date of enactment of this Act, the President shall promulgate a regulation providing for the mandatory allocation of crude oil, residual fuel oil, and each refined petroleum product, in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such regulation. Subject to subsection (f), such regulation shall take effect not later than fifteen days after its promulgation. Except as provided in subsection (e) such regulation shall apply to all crude oil, residual fuel oil, and refined petroleum products produced in or imported into the United States.

(b) (1) The regulation under subsection (a), to the maximum extent practicable, shall provide for—

(A) protection of public health, safety, and welfare (including maintenance of residential heating, such as individual homes, apartments, and similar occupied dwelling units), and the national defense;

(B) maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(C) maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

(D) preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;

(E) the allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

(F) equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;

(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction [of, fuels, and for required transportation related thereto:] of—

(1) *fuels, and*

(2) *minerals essential to the requirements of the United States,*
and for required transportation related thereto;

(H) economic efficiency; and

(I) minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

* * * * *

(h) (1) *If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them in obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).*

(2) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product in such manner and in such amounts to permit such users to obtain any such oil or product based upon such entitlements.

(3) The President shall provide for procedures by which any user of such oil or product for which priorities and entitlements are established under paragraphs (1) and (2) of this subsection may petition for review and reclassification or modification of any determination made under such paragraphs with respect to his priority or entitlement. Such procedures may include procedures with respect to local boards as may be established pursuant to section 109(c) of the Energy Emergency Act.

(4) The President may, by order or rule (which rule shall be deemed a part of the regulation under subsection (a)) require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product produced through such operations if he finds that such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions necessary to attain the objectives of subsection (b) of this section.

(5) The President shall consult with the Department of Labor, and if there is an increase in the level of unemployment from the level of unemployment in 1973 based upon the average 1973 figures and such increase reasonably results from energy shortages, then the President is urged to take such actions, consistent with the provisions of this Act, as he is authorized to take under this Act and any other Acts to encourage full production by the domestic energy industry at levels of investment return which make possible the expansion of facilities required to assure against a protraction in only such increased levels of unemployment.

(6) For purposes of this subsection, the term "allocation" shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

(i)(1) The President may, by order, require the production of crude oil at the producer level at the maximum efficient rate of production.

(2) The President shall consult with the Department of the Interior and with appropriate State governments in order to determine which producers should be reasonably required to produce crude oil at the rates specified in paragraph (1) of this subsection.

(3) For purposes of this subsection, maximum efficient rate with respect to any oil field other than oil fields on Federal lands shall be such rate as is determined by the State in which such oil field is located, and with respect to any oil field on Federal land shall be such as is determined by the Department of the Interior, except that the President may establish after consultation with such State (or with the Department of the Interior, in the case of any oil field on Federal lands) a maximum efficient rate higher than the rate established by the State or by the Department of the Interior if he determines that such

higher maximum efficient rate will not unreasonably impair the ultimate recovery of crude oil or natural gas from any such oil field under sound engineering and economic principles.

(4) The President shall direct the appropriate Federal agency to require that all existing and future development plans for oil fields involving Federal leases, permits or other arrangements for production of crude oil on Federal lands shall include or be amended to include effective provisions for the secondary recovery of crude oil, and, to the greatest extent technologically possible consistent with sound engineering and economic principles, for the tertiary recovery of crude oil, before the well is abandoned.

(j) Notwithstanding any other provision of this Act, or any provision of State or local law with respect to the allocation of gasoline or diesel fuel, there shall be provision for adequate supplies of gasoline, diesel fuel related products for essential and purposeful mobility of persons in the Armed Services of the United States on military orders, for household moves related to employment or displacement due to unemployment, and for moves due to health, educational opportunities, or other good and sufficient reasons.

(k) (1) The President shall exercise his authority under this Act and under the Economic Stabilization Act of 1970 so as to specify prices for sales of crude oil, refined petroleum products, residual fuel oil, and coal, produced in or imported into the United States, which avoid windfall profits by sellers.

(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, refined petroleum products, residual fuel oil, or coal, permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the 'Board') for a determination under subparagraph (A) or (B) of paragraph (3).

(3) (A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of crude oil, any refined petroleum product, residual fuel oil, or coal, permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such price permits windfall profits to be so received, it shall specify a price for the sales of such item which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified for sales of such item (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of crude oil, any refined petroleum product, residual fuel oil, or coal, permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determi-

nation by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller the items the price of which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order, for the purpose of refunding such profits, the seller to reduce the price for future sales of the item the price of which resulted in windfall profits, to create a fund against which previous purchasers of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(4) (A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

(6) For the purposes of subparagraph (B) of paragraph (3), the term "windfall profits" means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of crude oil, any refined petroleum product, residual fuel oil, or coal, determined by the Board to be in excess of the less of—

(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

(i) the reasonableness of its costs and profits with particular regard to volume of production;

(ii) the net worth, with particular regard to the amount and source of capital employed;

(iii) the extent of risk assumed;

(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

(B) the greater of—

(i) the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971; or

(ii) the average profit obtained by the particular seller for the particular item during such calendar years.

(7) Except as provided in paragraph (4), for the purposes of this subsection, the term "windfall profits" means profit in excess of the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971.

(8) For the purposes of this subsection, the term "interested person" includes the United States, any State, and the District of Columbia.

FAIR MARKETING OF REFINED PETROLEUM PRODUCTS

SEC. 8.(a) As used in this section:

(1) The term "commerce" means commerce between a State and a point outside such State.

(2) The term "marketing agreement" means that portion of an agreement or contract between a refiner and a branded independent marketer (A) which authorizes such marketer to market or distribute refined petroleum products using a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner, or (B) which authorizes such marketer to occupy premises owned, leased, or in any way controlled by a refiner, for the purposes of marketing or distributing refined petroleum products, or (C) which authorizes both.

(3) The term "person" means an individual or a corporation, partnership, joint-stock company, business trust, association, or any organized group of individuals whether or not incorporated.

(4) The term "refiner" includes any person (other than a branded independent marketer) who controls, is controlled by, or under common control with, a refiner. For purposes of the preceding sentence, the term "control" does not include control solely by means of a supply contract.

(5) The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any organized territory or possession of the United States.

(6) The term "to terminate" includes to cancel or to fail to renew.

(b) The following conduct is prohibited:

(1) A refiner shall not terminate a marketing agreement unless he furnishes prior notification pursuant to this paragraph to each branded independent marketer to which termination applies. Such notification shall be in writing and shall be accomplished by certified mail to each such marketer; shall be furnished not less than ninety days prior to the date on which such agreement will be terminated; and shall contain a statement of intention to terminate together with the reasons therefor, the date on which such termination shall take effect, and a statement of any remedy or remedies available to such marketer under this section, together with a summary of the provisions of this section.

(2) A refiner shall not terminate a marketing agreement unless the branded independent marketer to which such termination applies failed to comply substantially with one or more essential and reasonable requirements of such marketing agreement or failed to act in good faith in carrying out the terms of such agreement; except that such refiner may terminate such agreement if he does not, during the 3-year period which begins on the date of such termination, engage in the sale of any refined

petroleum product in commerce for sale other than for resale in any relevant market within which such branded independent marketer operated.

(c) (1) A branded independent marketer may maintain a suit under this section against a refiner who engages in conduct prohibited by subsection (b), whose actions affect commerce, and whose products he sells or has sold, directly or indirectly, under a marketing agreement.

(2) The court may award to any branded independent marketer actual damages resulting from the termination of a marketing agreement together with such equitable relief (including interim equitable relief and punitive damages) as may be appropriate, including declaratory judgments and mandatory or prohibitive injunctive relief. The court may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

(d) A suit under this section may be brought in the district court of the United States for any district in which plaintiff resides, is found, or is doing business, without regard to the amount in controversy. No suit shall be maintained under this section unless commenced within four years after the date of the termination of such marketing agreement.

THE CLEAN AIR ACT

TITLE I—AIR POLLUTION PREVENTION—AND CONTROL

* * * * *

IMPLEMENTATION PLANS

Sec. 110. (a) (1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator, within nine months after the promulgation of a national primary ambient air quality standard (or any revision thereof) under section 109 for any air pollutant, a plan which provides for implementation, maintenance, and enforcement of such primary standard in each air quality control region (or portion thereof) within such State. In addition, such State shall adopt and submit to the Administrator (either as a part of a plan submitted under the preceding sentence or separately) within nine months after the promulgation of a national ambient air quality secondary standard (or revision thereof), a plan which provides for implementation, maintenance, and enforcement of such secondary standard in each air quality control region (or portion thereof) within such State. Unless a separate public hearing is provided, each State shall consider its plan implementing such secondary standard at the hearing required by the first sentence of this paragraph.

(2) The Administrator shall, within four months after the date required for submission of a plan under paragraph (1), approve or disapprove such plan for each portion thereof. The Administrator shall approve such plan, or any portion thereof, if he determines that it was adopted after reasonable notice and hearing and that—

(A) (i) in the case of a plan implementing a national primary ambient air quality standard, it provides for attainment of such

primary standard as expeditiously as practicable but (subject to subsection (e)) in no case later than three years from the date of approval of such plan (or any revision thereof to take account of a revised primary standard); and (ii) in the case of a plan implementing a national secondary ambient air quality standard, it specifies a reasonable time at which such second standard will be attained;

(B) it includes emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance of such primary or secondary standard, including, but not limited to, land-use and transportation controls, and provisions for energy conservation measures;

(C) it includes provision for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality and, (ii) upon request, make such data available to the Administrator;

(D) it includes a procedure, meeting the requirements of paragraph (4), for review (prior to construction or modification) of the location of new sources to which a standard of performance will apply;

(E) it contains adequate provisions for intergovernmental cooperation, including measures necessary to insure that emissions of air pollutants from sources located in any air quality control region will not interfere with the attainment or maintenance of such region outside of such State or in any other air quality control region;

(F) it provides (i) necessary assurances that the State will have adequate personnel, funding, and authority to carry out such implementation plan, (ii) requirements for installation of equipment by owners or operators of stationary sources to monitor emissions from such sources, (iii) for periodic reports on the nature and amounts of such emissions; (iv) that such reports shall be correlated by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection; and (v) for authority comparable to that in section 303, and adequate contingency plans to implement such authority;

(G) it provides, to the extent necessary and practicable, for periodic inspection and testing of motor vehicles to enforce compliance with applicable emission standards; and

(H) it provides for revision, after public hearings, of such plan (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of achieving such primary or secondary standard; or (ii) whenever the Administrator finds on the basis of information available to him that the plan is substantially inadequate to achieve the national ambient air quality primary or secondary standard which it implements.

(3)(A) The Administrator shall approve any revision of an implementation plan applicable to an air quality control region if he de-

termines that it meets the requirements of paragraph (2) and has been adopted by the State after reasonable notice and public hearings.

(B) *The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard which the plan implements within the deadlines established under paragraph (2) (A) of this subsection. In making such determination the Administrator shall consider any current or anticipated suspensions under section 119, any action under section 106(b), and any projected shortages of fuels or emission reduction systems. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan (or portion thereof) not later than November 1, 1974.*

* * * * *

(c) (1) The Administrator shall, after consideration of any State hearing record, promptly prepare and publish proposed regulations setting forth an implementation plan, or portion thereof, for a State if—

(A) The State fails to submit an implementation plan for any national ambient air quality primary or secondary standard within the time prescribed,

(B) the plan, or any portion thereof, submitted for such State is determined by the Administrator not to be in accordance with the requirements of this section, or

(C) the State fails, within 60 days after notification by the Administrator or such longer period as he may prescribe, to revise an implementation plan as required pursuant to a provision of its plan referred to in subsection (a) (2) (H).

If such State held no public hearing associated with respect to such plan (or revision thereof), the Administrator shall provide opportunity for such hearing within such State on any proposed regulation. The Administrator shall, within six months after the date required for submission of such plan (or revision thereof), promulgate any such regulations unless, prior to such promulgation, such State has adopted and submitted a plan (or revision) which the Administrator determines to be in accordance with the requirements of this section.

(2) (A) *The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 6 months after the enactment of this paragraph on the necessity of parking surcharge regulations in order to achieve national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with transportation. In the course of such study, the Administrator shall*

consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

(B) No parking surcharge regulation may be promulgated by the Administrator under paragraph (1) of this subsection as a part of an implementation plan. All parking surcharge regulations previously promulgated by the Administrator shall be null and void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge regulation.

(C) For purposes of this paragraph, the terms "parking surcharge regulation" means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles.

* * * * *

FEDERAL ENFORCEMENT

SEC. 113. (a) (1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any requirement of an applicable implementation plan, the Administrator shall notify the person in violation of the plan and the State in which the plan applies of such finding. If such violation extends beyond the 30th day after the date of the Administrator's notification, the Administrator may issue an order requiring such person to comply with the requirements of such plan or he may bring a civil action in accordance with subsection (b).

(2) Whenever, on the basis of information available to him, the Administrator finds that violations of an applicable implementation plan are so widespread that such violations appear to result from a failure of the State in which the plan applies to enforce the plan effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan (hereafter referred to in this section as "period of Federally assumed enforcement"), the Administrator may enforce any requirement of such plan with respect to any person—

- (A) by issuing an order to comply with such requirement, or
- (B) by bringing a civil action under subsection (b).

(3) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of section 111(e) (relating to new source performance standards) [or], 112(c) (relating to standards for hazardous emissions), or 119(f) (relating to certain requirements during suspensions and priorities) or is in violation of any requirement of section 114 (relating to inspections, etc.), he may issue an order requiring such person to comply with such section or requirement, or he may bring a civil action in accordance with subsection (b).

(4) An order issued under this subsection (other than an order relating to a violation of section 112) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. A copy of any order issued under this subsection shall be sent to the State air pollution control agency of any State in which the violation occurs. Any order issued under this subsection shall state with reasonable specificity the nature of the violation, specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1)) is issued to a corporation, a copy of such order (or notice) shall be issued to appropriate corporate officers.

(b) The Administrator may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person—

(1) violates or fails or refuses to comply with any order issued under subsection (a); or

(2) violates any requirement of an applicable implementation plan (A) during any period of Federally assumed enforcement, or (B) more than 30 days after having been notified by the Administration under subsection (a)(1) that such person is violating such requirement; or

(3) violates section 111(e) **[or 112(c)]**, *112(c)*, or *119(f)*; or

(4) fails or refuses to comply with any requirement of section 114.

Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency.

(c) (1) Any person who knowingly—

(A) violates any requirement of an applicable implementation plan (i) during any period of Federally assumed enforcement, or (ii) more than 30 days after having been notified by the Administration under subsection (a)(1) that such person is violating such requirement, or

(B) violates or fails or refuses to comply with any order issued by the Administrator under subsection (a), or

(C) violates section 111(e) **[or section 112(c)]**, *section 112(c)*, or *section 119(f)*

shall be punished by a fine of not more than \$25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after the first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or

who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.

(d) *For the purpose of this section, the violation of any provision of an approved plan under section 106(b) of the Energy Emergency Act shall be deemed a violation of a "requirement of an applicable implementation plan during any period of federally assumed enforcement."*

INSPECTIONS, MONITORING, AND ENTRY

SEC. 114. (a) For the purpose (i) of developing or assisting in the development of any implementation plan under section 110 or 111(d), any standard of performance under section 111, or any emission standard under section 112(ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (iii) carrying out section 119 or 303—

(1) the Administrator may require the owner or operator of any emission source to (A) establish and maintain such records, (B) make such reports, (C) install, use, and maintain such monitoring equipment or methods, (D) sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (E) provide such other information, as he may reasonably require; and

(2) the Administrator or his authorized representative, upon presentation of his credentials—

(A) shall have a right of entry to, upon, or through any premises in which an emission source is located or in which any records required to be maintained under paragraph (1) of this section are located, and

(B) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under paragraph (1), and sample any emissions which the owner or operator of such source is required to sample under paragraph (1).

* * * * *

RETENTION OF STATE AUTHORITY

SEC. 116. Except as otherwise provided in sections 119 (f) 209, 211 (c) (4), and 233 (preempting certain State regulation of moving sources) nothing in this Act shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 111 or 112, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan or section.

* * * * *

TEMPORARY AUTHORITY TO SUSPEND CERTAIN STATIONARY SOURCE
EMISSION AND FUEL LIMITATIONS

SEC. 119(a) (1) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before May 15, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under subsection (b) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2) (B) and (2) (C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a) (2) of this Act.

(2) (A) After public notice and public hearing, the Administrator may, for any period beginning after May 15, 1974, and ending not later than June 30, 1979, temporarily suspend any stationary source fuel or emission limitations as it applies to any person if the Administrator finds—

(i) that such person will be unable to comply with such limitation solely because of the unavailability of types and amounts of fuels,

(ii) that such suspension (in conjunction with interim requirements under subsection (b)) will not, after the applicable implementation plan deadline, result in or contribute to a level of air pollutants which is greater than that specified in a national primary ambient air quality standard, and

(iii) that such person has been placed on a schedule which provide for the use of methods which the Administrator determines will assure continuing compliance with the stationary source fuel or emission limitation as soon as practicable (but no later than June 30, 1979), which schedule shall include increments of progress toward compliance with such limitation by such date.

(B) (i) Any schedule under subparagraph (A) (iii) shall include a date by which a contractual obligation shall be entered into for an emission reduction system which has been determined by the Administrator to be adequately demonstrated (except that in the case of a person wishing to construct and install such system himself as soon as practicable, but not later than June 30, 1979, the Administrator may approve detailed plans and specifications and increments of progress for construction and installation of such a system). Before the earliest date on which a person is required to take any action under the preceding sentence (but not later than May 15, 1970) any source may elect to have the preceding sentence not apply to it; but if such election is made, no suspension under this section may apply to such source after May 15, 1977.

(ii) For purposes of subparagraph (A) (ii) and of subsection (b), the term "applicable implementation plan deadline" means the date on which (as of the date of enactment of the Energy Emergency Act) a national primary ambient air quality standard is required by an

applicable implementation plan to be attained in an air quality control region.

(C) Any person may obtain judicial review of a grant or denial of a suspension under this paragraph and of any interim requirement on which such suspension is conditioned under subsection (b) by filing a petition with the United States district court for any judicial district in which is located any stationary source to which the action of the Administrator applies. The second and third sentences of clause (ii), and clauses (iii) and (iv) of section 206(b)(2)(B) of this Act shall apply to judicial review under this paragraph. No proceeding under section 304(a)(2) may be commenced with respect to any action or failure to act under this paragraph.

(3) In issuing any suspension under this subsection, the Administrator is authorized to act on his own motion without application by any source or State.

(b) Any suspension under subsection (a) shall be conditioned upon compliance with such interim requirements as the Administrator determines necessary for minimizing the threat to public health which may exist prior to the applicable implementation plan deadline and for assuring maintenance of the national primary ambient air quality standards during any portion of such suspension which may be authorized after the applicable implementation plan deadline. Such interim requirements and section 110 shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national primary ambient air quality standards during the period of the suspension. Such interim requirements shall include, but not be limited to, (A) the source receiving the suspension comply with such monitoring and reporting requirements as the Administrator determines may be necessary to determine the effect on health or air quality of such suspension, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons; and (C) requirements that the suspension shall be inapplicable during any period during which fuels or emission reduction systems which would enable compliance with the suspended fuel or emission limitations are in fact available to that person (as determined by the Administrator). Such fuel shall not be required to be used if the Administrator determines that the costs of changes necessary to use such fuel during such period is unreasonable.

(e) The Administrator may by rule establish priorities under which manufacturers of emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution.

(d) The Administrator shall study, and report to Congress not later than March 31, 1974, with respect to—

(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

(2) availability of scrubber technology (including projections respecting the time, cost, and number of units available) and the

effects that scrubbers would have on the total environment and on supplies of fuel and electricity;

(3) number of sources and locations which must use such technology based on projected fuel availability data;

(4) priority schedule for implementation of scrubber technology, based on public health or air quality;

(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities, analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

(6) projections of air quality impact of fuel shortages and allocations;

(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

(8) proposed allocations of scrubber technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

(9) plans for monitoring or requiring variance-receiving sources to monitor impact of variances on concentration of sulfur dioxide in the ambient air.

(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (b) or a compliance schedule under subsection (a)(2)(A)(iii) (including any requirement under subsection (a)(2)(B)(i)). No State or political subdivision may require any person to use an emission reduction system for which priorities have been established under subsection (c) except in accordance with such priorities.

(f) (1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a) to violate any requirement on which the suspension is conditioned pursuant to subsection (b).

(2) It shall be unlawful for any person to violate any rule under subsection (c).

(3) It shall be unlawful for any person to fail to comply with a schedule of compliance under subsection (a)(2)(A)(iii) (including any requirement under subsection (a)(2)(B)(i)).

(g) For purposes of this section:

(1) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including, a prohibition on or specification of the use of any fuel of any type or grade or pollution characteristic.

(2) *The term "stationary source" has the same meaning as such term has under section 111(a)(3).*

"(h) Beginning 60 days after the enactment of this section, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) Up-to-date findings on the emission reduction systems determined to be adequately demonstrated for the purposes of subsection (a)(2)(B).

(2) A concise summary of progress reports which are required to be filed by any person operating under a suspension pursuant to subsection (a)(2). Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator as a condition for receiving the suspension.

(3) Up-to-date findings on the impact of the suspensions granted upon—

(A) applicable implementation plans, and

(B) ambient air quality in areas where any person has received a suspension under subsection (a)(2) of this section

TITLE II—EMISSION STANDARDS FOR MOVING SOURCES

SHORT TITLE

SEC. 201. This title may be cited as the "National Emission Standards Act."

PART A—MOTOR VEHICLE EMISSION AND FUEL STANDARDS

ESTABLISHMENT OF STANDARDS

SEC. 202. (a) Except as otherwise provided in subsection (b)—

(1) The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment causes or contributes to or is likely to cause or to contribute to, air pollution which endangers the public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d)), whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.

(2) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) (1) (A) *The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles*

and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5) (A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or later model year [1975] 1977 shall contain standards which require a reduction of at least 90 percentum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light duty vehicles and engines manufactured in model year 1970.

(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1976 shall contain standards which provide that emissions of such vehicles and engines may not exceed 3.1 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during or after model year [1976] 1978 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light duty vehicles manufactured during model year 1971 which are not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.

(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to the date of enactment of the Clear Air Amendments of 1970), shall be prescribed by regulation within 180 days after such date.

(3) For purposes of this part—

(A) (i) The term “model year” with reference to any specific calendar year means the manufacturer’s annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If the manufacturer has no annual production period, the term “model year” shall mean the calendar year.

(ii) For the purpose of assuring that vehicles and engines manufactured before the beginning of a model year were not manufactured for purposes of circumventing the effective date of a standard required to be prescribed by subsection (b), the Administrator may prescribe regulations defining “model year” otherwise than as provided in clause (i).

(B) The term “light duty vehicles and engines” means new light duty motor vehicles and new light duty motor vehicle engines, as determined under regulations of the Administrator.

(4) On July 1 of 1971, and of each year thereafter, the Administrator shall report to the Congress with respect to the development of systems necessary to implement the emission standards established pursuant to this section. Such reports shall include information regarding the continuing effects of such air pollutants subject to standards under this section on the public health and welfare, the extent and progress

of efforts being made to develop the necessary systems, the costs associated with development and application of such systems, and following such hearings as he may deem advisable, any recommendations for additional congressional action necessary to achieve the purposes of this Act. In gathering information for the purposes of this paragraph and in connection with any hearing, the provisions of section 307(a) (relating to subpoenas) shall apply.

[(5) (A) At any time after January 1, 1972, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1) (A) with respect to such manufacturer. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed, by paragraph (1) (A)) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1975.]

[(B) At any time after January 1, 1973, any manufacturer may file with the Administrator an application requesting the suspension, for one year only of the effective date of any emission standard required by paragraph (1) (B) with respect to such manufacturer. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1) (B)) to emissions of oxides of nitrogen from such vehicles and engines manufactured during model year 1976.]

(5) (A) At any time after September 15, 1974 and before January 15, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1) (A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed, by paragraph (1) (A)) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977.

(B) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year of the effective date of any emission standard required by paragraph (1) (B) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1978. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he

shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(B)) to emissions of oxides of nitrogen from such vehicles and engines manufactured during the model year for which such suspension is granted. Any manufacturer may request additional 1 year suspensions until model year 1983, beyond which no suspension may be granted. Each additional request for suspension shall be treated as a separate suspension decision.

(C) Any interim standards prescribed under this paragraph shall reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers.

(D) Within 60 days after receipt of the application for any such suspension, and after public hearing, the Administrator shall issue a decision granting or refusing such suspension. The Administrator shall grant such suspension only if he determines that (i) such suspension is essential to the public interest or the public health and welfare of the United States, (ii) all good faith efforts have been made to meet the standards established by this subsection, (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards. *Notwithstanding the requirements of paragraphs (i) through (iv) of this paragraph, the Administrator shall grant any suspension requested pursuant to paragraph (5)(A) or (5)(B) of this paragraph if he determines that application of such standard would result in significant increase in fuel consumption for such vehicles and engines.*

[(E) Nothing in this paragraph shall extend the effective date of any emission standard required to be prescribed under this subsection for more than one year.]

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FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

SEC. 213. (a)(1) *The Administrator shall conduct a study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the lead-time involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy con-*

sumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator shall consult with the Secretary of Transportation, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

(2) For the purpose of this section, the term "fuel economy improvement standard" means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined by the Administrator for each manufacturer. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means.

DEFINITION FOR PART A

SEC. [213]214. As used in this part—

(1) The term "manufacturer" as used in sections 202, 203, 206, 207, and 208 means any person engaged in the manufacturing or assembling of new motor vehicles or new motor vehicle engines, or importing such vehicles or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles or new motor vehicle engines, but shall not include any dealer with respect to new motor vehicles or new motor vehicle engines received by him in commerce.

(2) The term "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(3) Except with respect to vehicles or engines imported or offered for importation, the term "new motor vehicle" means a motor vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser; and the term "new motor vehicle engine" means an engine in a new motor vehicle or a motor vehicle engine the equitable or legal title to which has never been transferred to the ultimate purchaser; and with respect to imported vehicles or engines, such terms mean a motor vehicle and engine, respectively, manufactured after the effective date of a regulation issued under section 202 which is applicable to such vehicle or engine (or which would be applicable to such vehicle or engine had it been manufactured for importation into the United States).

(4) The term "dealer" means any person who is engaged in the sale or the distribution of new motor vehicles or new motor vehicle engines to the ultimate purchaser.

(5) The term "ultimate purchaser" means, with respect to any new motor vehicle or new motor vehicle engine, the first person

who in good faith purchases such new motor vehicle or new engine for purposes other than resale.

(6) The term "commerce" means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly-within the District of Columbia.

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MINORITY VIEWS RE SECTION 105, H.R. 11450

Sec. 103 of H.R. 11450 grants authority to the executive to ration available supplies of fuel if necessary. This is an ultimate weapon which no one wants to see employed. It is an unpleasant answer which we hope can be avoided but which must be available if other programs fail to bring use of fuels in balance with supplies.

On the other hand, Sec. 105 of the bill as introduced was aimed at avoiding rationing by trying all the other possibilities quickly. There are many programs and combinations of programs which, when used in conjunction with the fuels allocation system, might very likely avoid the necessity of rationing. Lowering speed limits is one example which Congress has already done something about. There are kinds of travel which could be temporarily restricted, and uses for fuel and electrical energy which could be cut without crippling our economy or revolutionizing our way of life. Such things must be done now and not next fall or winter.

The way it was intended to work, the executive would suggest a series of such conservation plans within thirty days. Congress would have 15 days to single out those that seemed off target and the rest would go into effect. This is the kind of action we need. The procedures set forth in the bill before amendment in case of a disapproval resolution being filed were designed to prevent delay and get action. Any such disapproval resolution would be referred to an appropriate committee which would have five days to report back, after which any member favoring the resolution could make a motion to discharge. Resolutions of disapproval, once reaching the floor for disposition, would be subject to a debate limit of ten hours, and no amendments would be in order on the resolutions or motions pertaining thereto.

In the course of marking up H.R. 11450 an amendment was agreed to which emasculated this approach. It removed the Congressional veto and provided that for each plan submitted Congress would take appropriate action. As the bill now stands, Congress must act affirmatively before any plan can be implemented. Now the executive department is limited in its efforts to beat the fuel crisis to thinking up and submitting legislative recommendations which at best could take many weeks and at worst many months to pass. Meanwhile, inaction hurtles us toward rationing.

Ordinarily the reference of proposed governmental actions of any kind exercising authority over the people and the economy of this country should come to Congress for deliberate consideration and positive action before such actions are undertaken and imposed upon the country. This is a definite exception to that general policy which, it should be noted, grants authorities which expire December 31, 1974. In the case of the present energy crisis, it is absolutely essential that action be taken at once if the full impact of fuel shortages is to be

prevented and the consequent permanent damage to our economy and our whole society is to be avoided.

The House of Representatives should restore Sec. 105 to its original form if H.R. 11450 is to be a workable piece of legislation responsive to the threat of increased fuel and energy shortages.

SAMUEL L. DEVINE.

ANCHER NELSEN.

JAMES T. BROYHILL.

JAMES HARVEY.

TIM LEE CARTER.

CLARENCE J. BROWN.

DAN KUYKENDALL.

JAMES F. HASTINGS.

LOUIS FREY, JR.

JOHN WARE.

JOHN Y. MCCOLLISTER.

NORMAN F. LENT.

H. JOHN HEINZ III.

WILLIAM H. HUDNUT III.

SAMUEL H. YOUNG.

MINORITY VIEWS OF HON. JAMES M. COLLINS

A detailed discussion of the National Energy Emergency Act as it comes from the Committee would be a great waste of time for both the writer and reader. It started out as a bill to give the President authority to ration fuels and suggest other plans for conservation of scarce fuels by individuals or business users of those commodities. As soon as it became known that such a bill, namely H.R. 11450, was before the Committee for mark-up, every segment of American society had suggestions as to how to change it in order to assure that they were covered under it.

Although the Committee has pretty well resisted the efforts to name segments of the economy or certain businesses, the many amendments which have been accepted are designed to give practically every business a reason to point to this bill as its justification for special treatment.

Further, each segment of the economy would like to make up for its failure to get specific identification in the bill by getting it in the report so that those who administer the program will know for sure that we really did intend to take care of them. The ultimate result must be utter confusion and frustration when supplies cannot possibly be stretched to give everyone what he will come to consider his lawful due. Any attempt to do everything for everybody ends up doing nothing for anybody. If shortages continue, and especially if they get worse, there will be retrenchment in many sectors of our economy, and no words in this bill will prevent it.

If rationing is necessary, and the views of the experts seem to shift from day to day, the authority could be granted in simple terms.

But now let us look at another approach to saving fuel, set out in Sec. 105 of the bill and called "Energy Conservation Plans." These include such actions as limiting speed on highways and hours of business operation. This approach originally contemplated a look by Congress at such plans at the end of 30 days, and unless Congress found them grossly unacceptable, they would go into effect in a total of 45 days. The Committee, however, changed this approach by removing any apparatus for the conservation plans to go into effect. Instead, each plan will be submitted to Congress "for appropriate action." This means that plans forwarded by the executive will be legislative recommendations.

As for actions by regulatory bodies, we order them to do what they can and then tell us what additional authorities they may require to do a better job of combating the shortages. This hardly needs to be legislated.

Much is done to remove roadblocks in the use of coal and to encourage return to the use of coal for many purposes, particularly electric generation. Any attempts to make similar adjustments and to make better use of our natural gas and nuclear energy were resisted.

One of the most confusing amendments to the bill provides for Windfall Profits under the Reorganization Act. Although producing little additional revenue, this provision will cause an accounting and legal nightmare.

The most obvious waste of gasoline is excess mileage involved in school busing. An amendment to confine school busing to the nearest neighborhood schools was set aside by parliamentary motion. This could save over 200,000,000 gallons of gasoline a year and I trust the Members of Congress will be given opportunity to express their will on this matter.

Looking to the future, the section that guarantees permanent financing represents poor economics. If a dealer provides poor representation, inadequate service, and low standards of distribution, the company should have the discretionary right of removal.

No one will ever be able to decipher what this bill really does. Despite a fair and determined effort by the Chairman of the Committee to keep amendments on target, the amendments, numbering a hundred or more to every part of the bill, contradictory, overlapping and some of questionable germaneness, could only result in a tangled and confusing piece of legislation.

For Congress to insist upon keeping control of the energy situation is understandable, but loading down this bill with pages of extraneous exhortations to reasonableness and fairness does nothing for the effort.

What has been needed from the first is four basic bills granting authority to cope with the real causes of shortages and their consequences. An example of such legislation would be a bill providing for the development of new sources of energy. If we need to let up on automobile standards for a while to get over the hump, then let us do so and not agonize over half measures. If industries must be given some relief from governmental requirements for the same reason, then we should do it and not equivocate. We have a crisis which at best will be a drag upon our economy and wellbeing as a nation for some time to come. We should recognize it, decide what we need most, and with the priorities determined, act decisively.

Emphasis has been placed more and more on satisfying the wants of the individual in the use of petroleum. We are making sure that homes are warm but perhaps not thinking nearly as much about the industry which supports these homes. If we can pull ourselves out of this situation, it will be because our industries remain viable and our economy strong. That means production. That means jobs. Any program which does not recognize this as the prime target and see to it that the needs of industry are met, can never achieve the long range recovery we must have.

This bill does not meet the needs of the situation and might better be sent back to the drawing board. I recommend that the House of Representatives recommit H.R. 11450.

JAMES M. COLLINS.

SEPARATE VIEWS OF HON. JAMES HARVEY

America is in the midst of an energy crisis, and the shortage of gasoline is being heavily felt by all Americans. For example, auto plants in Michigan are experiencing substantial layoffs because of the impact of the shift in the demand toward the small, economy car. The public at the same time are angrily inquiring, "Why is my new car getting such poor gas mileage?" The answer to this inquiry is that there are several reasons, one of the most important being the impact of auto emission controls. The problem was succinctly expressed by my colleague, Congressman Tim Lee Carter, a member of the Subcommittee on Public Health and Environment, who stated during the Committee's deliberation on the bill that with regard to the Clean Air Act amendments, his subcommittee "had tried to go too far, too fast."

It makes sense at the present time to look more carefully at what we are doing in our attempt to obtain the goal of Clean Air. Each change that we make in the means we use to reach this goal should be carefully weighed. In this regard the Committee was confronted with conflicting testimony as to the interrelationship of auto emissions, unleaded gasoline and fuel economy, leading to questions such as, is the supposed improvement in air quality worth the sacrifice in gas mileage?

It is clear that Congress has a chance in this legislation to create a mechanism which will result in tremendous conservation of fuel by improving the performance of the automobile engine which has so deteriorated in recent years. At the same time the goal of clean air that we ratified in the Clean Air Act of 1970 can be retained. Reduction in auto emissions to the extent required by these amendments is not necessary to achieve the desired goal. As stated by John B. Heywood of the MIT Sloan Automotive Laboratory with regard to extending the interim HC and CO standards. "The notion that a few years' delay in improving the original 1975 standards results in significant deterioration in air quality is not valid," and with regard to NOX. "The dynamics of vehicle turnover are such that these levels do not need to be imposed immediately but can be phased in over several years."

Several alternatives were available to the Committee. First, we could do nothing, as Administrator Train of the EPA suggested, which would really mean, wait until next spring and look again. The problem with this alternative would be that it ignores the lead-time the auto industry requires to develop and get certified prototypes of 1976 vehicles.

Second, we could freeze the 1974 auto standards. Although these standards have resulted in the poorest fuel economy, this alternative had a big advantage in that it would give the industry the option to go in the direction that they deemed the best. General Motors would have catalytic converters. Ford would probably go toward developing

a stratified-charge engine on all or most of its model line. Chrysler could go either way. The result would be that the consumer would have a choice as to what sort of engine emission control combination he could buy.

The third alternative would be to freeze the 1975 federal interim standards for hydrocarbon and carbon monoxide emissions, which really means everyone next year would have a car with a catalyst at an additional cost of up to \$150 with questionable benefits in terms of health effects.

The Committee decided on the third alternative but chose to extend it only for one year. I opposed this position and offered an amendment which would have extended the standards for two years. There are basically two reasons for this. First, the auto industry has constantly been required to "hit a moving target" in that auto emission standards have become more stringent each year. Constant attention to auto emission technology to meet these standards has been required with the result that little or no attention could be given to engine performance, drivability and fuel economy. Except for the years 1973 and 1974, standards have become more stringent each year, and every year the auto engine has become less efficient and more fuel consuming. In the two years that the standards stayed the same—1973 and 1974—the manufacturers had their one chance to tinker with the engine, and as a result fuel economy and performance improvements were noted. The freezing of the 1975 standards for two years would have allowed a similar result to take place during this crisis period of fuel shortages.

Second, this failure to suspend the standards for two years continues to force investment away from development of a clean yet economical engine. For example, Ford Motor Company testified that they are investing some \$320 million (their yearly profits are about \$800 million) for pollution control technology. This diverts resources from both alternative fuel source development and immediate improvements on performance and drivability of current engines. A freezing of the standards from 1975 to 1977 would have enabled major attention to be given to these long-range goals rather than to immediate problems with meeting constantly changing emission standards.

The fact that the Committee amendment provided for the possibility of an additional one year suspension by the administrator is absolutely meaningless. EPA has testified that there should be no change in the current schedule of the application of automobile emission standards, that is, that the 90% reduction in HC and CO mandated by the Clean Air Act should come into effect in 1976. Administrator Train stated before the Subcommittee on Public Health and Environment earlier this week, "I strongly recommend that no changes be made in the automotive emission standards at this time." It is ridiculous to assert that if EPA favors a 90% reduction in 1976, they will grant a delay of these standards until 1978.

In addition to its failure to at least suspend the 1975 standards for two years, the Committee amendment had one other, and perhaps more serious defect, which I also attempted to have changed—the manner in which it dealt with reducing nitrogen oxide emissions. My amendment would have held this reduction to 2.0 grams per mile. There is a consensus among experts in the field that reaching much

below a 2.0 gram standard is almost impossible. Further, if it can be done, it will result in a tremendous loss of gas mileage and an adverse effect upon driveability. It is problems such as this that the Committee purported to be resolving in their amendment but which, in my opinion, they failed to do.

In attempting to achieve an essential goal, Congress made some serious errors in the Clean Air Act of 1970. We should correct these errors without any delay as we seek to achieve that goal, but with a mitigation of the negative impact on fuel economy that our 1970 mistakes have caused.

JAMES HARVEY.

SEPARATE VIEWS BY CONGRESSMAN J. J. PICKLE

"FTC AMENDMENT"

During the mark-up of this bill, a colleague offered an amendment, which was not adopted, designed to force the energy companies to disclose to the Federal Trade Commission certain and specific information about themselves, particularly as it pertains to reserves.

While discussing this amendment, I raised questions about the need to put this provision in H.R. 11450.

I have since contacted the Federal Trade Commission and solicited their opinion about this proposed amendment to the bill.

Monday, I was pleased to receive a letter from the Federal Trade Commission on this proposal.

Reprinted below is the letter I received from the FTC:

FEDERAL TRADE COMMISSION,
Washington, D.C., December 10, 1973.

Hon. J. J. PICKLE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN PICKLE: This is in response to your request to the Federal Trade Commission regarding the amendment offered by Congressman Dingell to add a new section 113 to H.R. 11450.

This amendment would authorize the Federal Trade Commission to collect various types of financial information and reserve data from certain energy producing industries with the objective of making this information available to Congress and the public. Some of the financial information involved is already made public by publicly held companies. For example, the Securities and Exchange Commission requires that certain information be made available in annual reports, in connection with the issues of securities, and in other situations.

Other information that the FTC could collect and publish pursuant to this amendment is not presently available to the public. The companies involved regard this information as confidential. They could be expected to object to its public dissemination.

At the present time, the Federal Trade Commission already has authority to obtain the types of information covered by Congressman Dingell's amendment. Our authority resides in Sections 6(b) and 9 of the Federal Trade Commission Act. In this connection, we would point out that the Commission's proposed annual line-of-business reporting program would require much of this information to be submitted by the companies for statistical reporting purposes.

Implementation of this program has been rendered more immediate by recent enactment of the Trans-Alaska Pipeline Act, including the amendments contained therein to the Federal Reports Act of 1942.

However, the Commission does not now make such information available to the public in all cases. First, the Commission has discre-

tion under the Freedom of Information Act to withhold "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b) (4). Second, the Commission, pursuant to the provisions of Section 6(f) of the Federal Trade Commission Act, may not make public trade secrets and names of customers.

Thus, in light of the Commission's existing authority, we do not believe that the authority conferred by Congressman Dingell's amendment is needed to carry out our law-enforcement responsibilities.

To the extent that the information involved is confidential, mandatory public disclosure could have one or more undesirable consequences. First, it could adversely affect competition within the relevant industries. *Cf. U.S. v. Container Corp.*, 393 U.S. 333 (1969). Second, it could put American companies at a disadvantage with foreign competitors who, presumably would not have to reveal the same information.

You also requested information as to the status of the Commission's investigation of the natural gas producing industry. That investigation is currently active and the staff is engaged in collecting and analyzing available information. The investigation has been delayed during the past few months by the refusal of seven major gas producers to provide information in response to Commission subpoenas issued on June 6, 1973. The Commission is currently attempting to enforce compliance with these subpoenas in an action filed in the U.S. District Court for the District of Columbia, and a hearing is now scheduled on the Commission's petition for December 13, 1973.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

Thus, the FTC is already compiling the information which the amendment proposed.

The only thing that I could add to Mr. Tobin's letter for the Commission is that the energy companies must realize that they should provide the proper government agencies with all the information that the agencies require that would not be detrimental to the competitiveness of the company.

In cases where the information being made public could hurt the company, the company should be open with the agency as to why it would be and to share the information on a confidential basis if possible.

Only when the American public is satisfied that all information is available about the profits and reserves of the energy companies will legislation come forth that encourages the growth and economic well-being of the private energy companies.

"WINDFALL PROFITS"

I also make a separate view on the so-called windfall profit provision of the bill.

Even though it is almost un-American to be for windfall profits, and although I quickly point out that I do not favor windfall profits, price-gouging or whatever—and don't know of any Member who

does—I feel that adding a section to this bill on the profits of private energy companies is misplaced.

The purpose of the amendment is to make sure that energy companies do not reap abnormal profits during the shortage of energy supplies.

This amendment does not belong in a bill designed to give the President authority to ration petroleum products and to propose energy saving measures.

This is not to say that the oil companies are not above criticism and suspicion in recent days as energy prices and oil companies' profits seem to have a direct correlation to the growing shortages of petroleum supplies.

At the same time, because of suspicion, there is no justification to beat over the head a system of private capitalism in the energy industry, even though this may be the popular thing to do.

The question of profits by oil companies should be examined by the Ways and Means Committee, along with staff experts on the Joint Committee on Economics. This Committee has the expertise to study how to handle "windfall profits" if they exist.

If price gouging, or "windfall profits", are proven to be a fact, then the Ways and Means Committee could and should legislate taxes that would serve the public's needs. Such legislation would probably take the form of an excess profits tax, if need be.

But whatever, the Ways and Means Committee would act after hearings allowed all affected parties to come forward, prove their case, and to make suggestions for corrective action that would be reasonable and acceptable to all parties concerned.

As it is, the "windfall profits" provision of this bill was proposed and adopted in less than half an hour, without the benefit of full discussion and hearings.

I would add that the best relief for the energy shortage could be the de-regulation of natural gas, but natural gas was not considered germane to this bill. De-regulation, with specific limitations, would encourage oil companies to go out and drill more domestic gas wells—these wells could be bringing gas to American homes within 18 months if we started today. To control the profits from de-regulated natural gas, an excess profits tax might be needed. I do not think that an excess profits tax is the best economic tool we have to deal with the energy shortage and prices; but I do think that such a tax may be one way that we will see the supply of natural gas increased through de-regulation.

In any event, excess profits should be controlled through reasoned action by the Ways and Means Committee or an appropriate committee, and not by this legislation with its "windfall profits" section that requires profits to be paid back in an unfathomable way to millions of customers.

J. J. PICKLE.

SEPARATE VIEWS OF MR. GOLDWATER TO H.R. 11450

During the open mark-up of H.R. 11450, the "National Energy Emergency Act," the members of the House Interstate and Foreign Commerce Committee worked long and hard under some very trying circumstances to shape a bill that would take a reasonable approach to the problem of energy shortages. The Committee met in extraordinary night sessions, and at times debate on the numerous amendments to the bill was confusing, and often, heated. However, considering the time restraints and the critical nature of the bill, the Committee, in my judgment, reported a bill that represents an improvement over the Senate bill.

Nevertheless, there are two basic flaws inherent in a bill of this type, which to a great extent, are responsible for the present energy crunch. They involve perpetuating a top heavy bureaucracy, while at the same time, doing precious little about the problem of energy supply.

Just recently, our colleague from Texas, Congressman Jim Wright, prepared an excellent paper on energy, which he circulated to every member. One statement in the paper struck me as particularly succinct, and it bears repeating.

"The public will not be well served if the primary Congressional "initiative" consists merely of turning over yet another wide range of discretionary policy making powers to the Executive branch of government. Not only is such a posture ludicrously at odds with our protestations against Presidential usurpation of legislative prerogatives, it also would represent a "cop out" by the people's elected representatives on the hard decisions that shape the future in this singly most significant domestic problem of our time."

While it can be argued that H.R. 11450 is necessary to meet a critical domestic energy shortage, it does us little good to attempt to regain Congressional prerogatives in foreign affairs with the War Powers bill, and then turn right around and hand the President a domestic "Gulf of Tonkin" in the name of an energy crisis.

Ostensibly, the purpose of H.R. 11450 is to amend the "EMERGENCY PETROLEUM ALLOCATION ACT of 1974", which was signed into law just recently. However, I am not certain that the Executive branch of government needs this additional authority. The President is already vested with a number of statutes that he can use to tackle the energy crisis. These include, in addition to the Emergency Petroleum Allocation Act, the Defense Production Act of 1950, and the Economic Stabilization Act of 1970.

At the present time, polls show that the American people seem to favor a program of rationing, allocation and conservation, but I recall that prior to the passage of the Economic Stabilization Act, the public also appeared to favor wage and price controls. It didn't take very long for the public to become disillusioned with these artificial restraints on the economy. While I am so clairvoyant, I feel that the American

people will eventually tire of any program that calls for indefinite rationing without the hope of increasing energy supplies.

In reality, Congress is escaping the problem because Congress and to an extent, the Administration, has consistently refrained from taking action to increase our energy supplies. It's somewhat comparable to the freeze on beef prices. It all sounds very nice until you go to the market and try to purchase beef. The same is true with energy. You can ration energy, but if you don't offer incentives to produce more energy, in the long run there won't be any more energy to ration.

Of course, there is ample precedent for energy rationing, however, we have to go back to World War II for an example of energy rationing applied nation wide. While the rationing program worked to an extent, it must be taken into consideration that the entire economy was geared to the war effort. In addition, it is a great deal easier to ask people to make sacrifices during a state of declared war in which the national security is threatened, but to call upon the public to make extended sacrifices during peace time, is quite another question.

Administratively, I see no possible way that rationing will be successful. It is certainly doomed to failure unless supply is increased. The inequities of rationing are really appalling when we stop to consider it. I don't think that this Administration, or any Administration, for that matter, can properly implement a rationing program.

Rationing can only result in a maze of bureaucratic entanglements that frustrate the public, particularly those people who are in the moderate to low-income bracket. If we look at the experience of World War II, we can see that the poor and underprivileged were hurt more by rationing, because they did not have the political clout or economic influence to compete in the black market which flourished.

In the absence of rationing, we need to ask what system, free of bureaucrats and policemen, can be used to get everyone in America going in the same direction, freely and voluntarily conserving fuel while at the same time, providing an economic incentive to those most able to produce more. I submit that the answer lies in the market place and the competitive free enterprise system.

Rather than a mandatory program of allocation or conservation, if the price of fuel is allowed to seek its own level in the market process, the individual will find ways to conserve fuel by setting his own priorities. As a significant parallel, he will be free from bureaucratic, inequitable rationing.

If the price of fuel finds its level, the individual will eventually find that supply will be increased as a result of the profit motive, and as supply increases, prices should decline.

Just recently, the distinguished economist, John Winger, estimated that in order to meet the energy needs of this country for the period 1970-1985, the energy production industry will have to achieve an average annual growth in net earnings of 18%.

Such growth cannot be realized unless the market place is used as a gauge to determine at what point supply catches up with demand.

We have huge reservoirs of energy resources, but they must be harnessed. This will only be done when the producers of energy have sufficient capital to develop these reserves of petroleum, as well as construct the refineries, tankers and pipe lines which are needed to

meet our energy demands. While the oil companies would certainly harvest big profits, they would not have to come to the government, and hence, the American taxpayer, for the capital. Then too, when they show a profit, a large percentage of it is returned to the government in the form of corporate income taxes.

The competitive market place can assure us of adequate energy supplies. Rationing and artificial government controls by their very nature destroy the incentive to increase supply.

It is imperative that H.R. 11450 be viewed as only a short term response to the energy crisis. Rationing, with all of its horrible implications, is a poor legacy for us to leave to future generations of Americans. Rationing means a reduction in productivity, a reduction in jobs, a reduction in our standard of living, a reduction in such things as health care, environmental progress, and social reform. I know of no member of Congress who wants to see this happen.

BARRY M. GOLDWATER, Jr.

SEPARATE VIEWS OF REPRESENTATIVE BROCK ADAMS

This is a very important piece of legislation. I voted to report this bill to the Floor because I believe it is imperative that the President have the authority to *ration* gasoline at the pump and be required to *allocate* petroleum products generally. Above all, the Congress should control the Administration in the issuance of any more special energy plans such as those which have recently caused devastation to certain sectors of our economy.

The Committee has had to operate under almost impossible conditions because the Administration presented no contingency plan, and had no position on whether or not it would ration gasoline. We therefore had no way of knowing whether or not the Administration would conduct a rationing program properly. Early in the Committee mark up it was decided by an overwhelming vote to reject mandatory rationing and instead simply authorize "end use allocation." This was in addition to the requirements already in the Emergency Allocation Act, PL 93-159 signed into law November 27, 1973, that petroleum products be allocated. Once this decision had been made to adopt a general allocation formula every group with a special interest began to press for amendments to protect themselves either by obtaining a priority status or by specifying that the Administration could not discriminate against them. When this started the bill became a Christmas tree, with dozens of ornaments in the form of special-interest amendments.

The situation became even worse when other interests determined that the energy crisis could be used as a vehicle for putting into effect programs that were highly controversial, and only marginally related to fuel conservation. These programs were generally under the jurisdiction of other Committees of the House.

Examples are: the prohibition of school busing beyond the closest available school on the premise that this would save fuel (Education and Labor Committee); exemptions from anti-trust laws (Judiciary Committee); exemptions from conflict of interest statutes (Government Operations Committee); control of highway uses (Public Works Committee); and alterations in the structure of mass transportation operations (Banking and Currency). In all, there were over 100 amendments offered and more than 75 were adopted.

I would like to point out to the members some of the dangerous provisions which I will contest on the Floor.

ANTI-TRUST PROVISIONS

The Committee adopted two amendments to Title I offered by the gentleman from Ohio, Mr. Brown, which greatly weaken our anti-trust laws. The first exempts from the anti-trust laws retail establishments who enter into voluntary agreements to promote energy conservation by limiting operating hours, adjust retail store delivery or take other

such action so long as the President after consulting with the Attorney General deems it necessary.

The second amendment would exempt from anti-trust laws all "actions taken in good faith by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil or any refined petroleum products (in accordance with this section and rules promulgated hereunder to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement, shall not be construed to be within the prohibitions of the United States anti-trust laws, the FTC Act, or similar State or local statutes.") This is an incredible grant of authority to large business concerns to enter into agreements to supply one another to the exclusion of those not in the voluntary agreement or to agree to any type of business restriction in the name of fuel conservation.

During the hearings I asked the panels testifying on behalf of the Administration and the Regulatory Agencies whether they could tell me the degree to which a limited number of companies controlled the refined petroleum products of the United States and also what the petroleum reserves of the U.S. were. In spite of the fact that they were supposedly prepared to administer an allocation program, they could answer neither of these questions.

During the mark-up of the bill I received the following information from Mr. Stephen Wakefield, Assistant Secretary of the Interior.

(See table.)

TOTAL U.S. REFINING CAPACITY, 1972

Order of size	Name	Percent of total	Cumulative percent of total
1	Exxon	8.6	8.6
2	Texaco	8.2	16.8
3	Shell	8.0	24.8
4	Amoco	7.6	32.4
5	Socal	7.3	39.7
6	Mobil	6.8	46.5
7	Gulf	6.3	52.8
8	Arco	5.6	58.4
9	Sun	3.4	61.8
10	Union	3.3	65.1
11	Phillips	3.0	68.1
12	Sohio ¹	2.7	70.8
13	Ashland	2.6	73.4
14	Conoco	2.5	75.9
15	Cities Service	1.8	77.7
16	Marathon	1.7	79.4
17	Getty	1.5	80.9
18	Union Pacific	1.0	81.9
19	Coastal States	1.0	82.9
20	Amer.	1.0	83.9
21	Petrofina		
22	Murphy	.8	84.9
23	Clark	.8	85.5
	Amerada	.7	86.2
	Hess		
24	Koch	.7	86.9
25	Crown	.7	87.6
	Central		
26	Tenneco	.6	88.2
27	Charter	.5	88.7
28	Toscopetro	.5	89.2
29	Agway	.4	89.6
30	CRA	.4	90.0

¹ Includes B.P.

As can be clearly seen, refined petroleum products are controlled by a limited number of people. The Committee still does not have any reply on the reserves controlled by the oil companies. To

grant any anti-trust exemptions under these circumstances is incredible. I will offer a point of order against these provisions when this bill reaches the floor.

GAS RATIONING

This bill does not mandate rationing and from an early, overwhelming vote in the Committee it was established that the word "rationing" would not even be used in the bill. I support gasoline rationing for everyone, with a priority status to maintain vital public services and to those who could establish absolute need. I believe the American economy is like a fat man who has been consuming too much and is faced with not being able to eat as much in the future. The way to handle this is not to cut off an arm or leg (such as occurs with special rules on speed limits, restrictions on outdoor lighting, and other special plans which cause a great trauma to certain sectors of the economy), but to establish a limit on consumption for a short period of time so that a lower level of consumption can be achieved. If we ration for a year this can be done. The granting of a certain amount of gasoline to an individual at a fixed price means that each individual American can then decide how he wants to use his allotment (i.e., whether he wants to drive to work, share it in a carpool, put it in a boat, drive to a recreational area or use it for other purposes.)

Without such a system the average American will be forced to stand in line at gas pumps, pay outrageous prices or be left to the mercy of individual gasoline companies and dealers who can exact whatever demands they want before an individual can obtain gasoline. We can only hope that the President through a new Energy Administrator will come forth with a specific plan that is authorized in this bill, and that it will not be a "dollar late and a day short" as has happened in the past.

SPECIAL ENERGY PLANS

In spite of my reservations about the other sections of the bill, I have supported the bill because I strongly believe in the new Section 105 which provides that the Energy Administrator cannot issue any more haphazard plans without Congressional approval. This will return to Congress its traditional role of legislator and provide Congress with the opportunity to control hasty and ill-conceived Administration plans which are now disrupting our economy. The Committee would not have found it necessary to put this limitation in the bill if the Administration had presented to the Committee a specific plan to meet the energy crisis and if we had not already had such bad experiences with haphazard announcements and arbitrary cuts in fuel allocation to various parts of the economy.

From comments by Mr. Schultz and Mr. Simon it seems clear that the Administration is not going to order rationing in time to save the economy and therefore other desperation plans are going to be put into effect. It is essential that this section, whereby the Administrator would be required to immediately present to the Congress what plans he has to meet the energy crisis, be kept in the bill. This bill *at least* forces the Administration to recognize the fact that the country has changed from an economy of oil abundance to an economy of oil scarcity. The Administration must produce a plan that recognizes this fact, and Congress must approve such a plan.

PRICING

I did not offer an amendment to control prices because this bill amends the Emergency Petroleum Act of 1973 and Sec. 4 of that Act requires the President to promulgate a regulation which provides for equitable prices. This provides for a dollar for dollar pass through of increased costs only and maintenance of markup margin of posted prices at all levels of marketing and distribution. This would apply to all crude oil, residual fuel, and refined petroleum products and I therefore it is my understanding that no amendments to this Act are necessary to fix prices. I do, however, support Representative Roy, the Member of the Committee who offered amendments to provide that if "windfall profits" are enjoyed by the oil industry these must be returned either through price reductions and reimbursements or through provisions of the Re-negotiation Act.

The Administration has had ample powers for months to control the energy crisis. In April of 1973 amendments to the Economic Stabilization Act provided the power to allocate fuel. However, it wasn't until October 3, 1973 that Governor Love issued regulations for the allocation of propane and not until October 16, 1973 that middle distillates were allocated. After awaiting a mandatory allocation program for all fuels for months, Congress finally had to pass the Emergency Petroleum Allocation Act of 1973 and even this legislation faced Administration opposition. Because of the Administration's misuse of existing authority this legislation must be passed. We must force the Administration, no matter how reluctant, towards an equitable program of fuel conservation and rationing.

BROCK ADAMS.

SEPARATE VIEWS OF REPRESENTATIVE JOHN E. MOSS

I concur in the views expressed by Mr. Adams, particularly with regard the immediate need for gasoline and oil rationing and the importance of requiring the Administrator to submit energy conservation plans to Congress for approval. I do not concur with his remarks regarding the anti-trust provision of the bill. While I believe the anti-trust section is nongermane and should not have been considered by the Committee, it nonetheless includes numerous safeguards against anti-competitive conduct. Included are provisions granting the Attorney General and the Federal Trade Commission the right to disapprove and voluntary agreements or actions, limiting anti-trust immunity to those activities necessary to carry out the emergency provisions of the bill, and providing for full public participation in developing and implementing all such agreements and plans of action. These provisions adequately protect public interest with regard to the anti-trust laws.

Should any amendment be adopted which removes any of the carefully structured safeguards worked out for the limited anti-trust exemption provision in the legislation, then, I would, of course, vigorously oppose the inclusion of any manner of exemption in this legislation.

JOHN E. MOSS.

SEPARATE VIEWS OF HON. H. JOHN HEINZ

The Interstate and Foreign Commerce Committee has worked hard to bring to the House floor as quickly as possible the "National Energy Emergency Act." But because of the urgency of this legislation and the haste with which the Committee has been forced to act, the quality of H.R. 11450 has suffered. Regrettably, therefore, much remains to be done on the House floor if we are to design acceptable legislation.

While I oppose this bill in its present form, there is clearly admirable intent in the Committee bill. Historically Americans have always been a frugal people, but over the last generation we have developed wasteful energy consumption habits. And to feed our insatiable appetite for energy, we have allowed ourselves to become increasingly dependent upon foreign sources of basic fuels, importing 30 to 35 percent of our petroleum needs. But a nation can only be strong when it is independent, and in the decades ahead the first measure of our independence will be the extent to which we are capable of supplying our own energy needs. H.R. 11450 by helping us restrain the astounding rate of increase in our demand for energy will help move us towards energy self-sufficiency, thereby enhancing our diplomatic strength and independence.

But there are major deficiencies in this bill which simply cannot be accepted, even in exchange for the necessary and important provisions mentioned above.

First, H.R. 11450 grants to the executive branch authority to allocate or ration fuels to individual consumers, and it does so in an all too broad and sweeping fashion. In our energy intensive society the power to ration fuels may be equivalent to the power to decree economic life or death. No man should exercise that power unless it is closely circumscribed by full opportunity for Congressional oversight and veto. Any rationing program establishing by the President under Section 103 of this bill (and I would include the energy conservation programs under Section 105) certainly should be subject to the Congressional review and veto procedures such as those contained in the original bill's Section 104, which provided for legislative rejection of energy conservation plans by majority vote of either House of Congress. Unfortunately, the Committee gutted the original version of the bill (as pointed out in accompanying minority views). Under the Committee bill, if Congress wishes to stop a rationing program that it considers unnecessarily injurious to a particular region or economic sector, it would be forced to enact from scratch a law rejecting that rationing program. Of course, this would ultimately require the support of two-thirds of each house since it would be subject to Presidential veto.

This is not good enough. The House would be further abdicating its powers to the executive branch if it fails to incorporate in H.R. 11450, a Congressional veto power of any end-use allocation or energy conservation program.

The second major weakness of the "National Energy Emergency Act," is that it provides inadequate assurances that fuel conservation and rationing programs will be designed and administered to minimize loss of jobs in all economic sectors and geographic regions. In fact, if the bill is enacted as reported and enforced to the letter of the law, H.R. 11450 might very well result in greater unemployment. For instance, Section 103 amends the Emergency Petroleum Allocation Act providing for end-use allocation of gasoline to individual consumers. The Committee bill gives priority allocation to public safety, health care and hospitals, and transportation services. But it also grants top priority to education and new housing construction. No special allocation is accorded industrial construction for new plant capacity—an economic necessity in the years ahead this nation is to avoid both chronic unemployment and critical shortages of basic materials. While no one can dispute the importance of education or new housing construction, providing special priority for these while failing to mention industrial expansion may be the most economically shortsighted provision of this legislation.

The Committee also rejected the criteria which would have required fuels to be allocated on the basis of their impact on jobs. This proposal would have required allocation of fuels in such a way as to assure, to the extent practicable, that any unemployment resulting from shortages would be evenly distributed. For example, if a particular industry could absorb a 40 percent reduction in fuel while maintaining full or nearly full employment, its allocation would be appropriately reduced. On the other hand, if another industry could sustain only a ten percent fuel cut without affecting employment, that is the allocation it would receive. I regret the Committee did not accept this rather fundamental decision rule.

The third area in which H.R. 11450 is deficient is in its hasty modifications of environmental laws protecting Americans' health. Title II, amending the Clean Air Act, does contain one attractive feature in that it will force any person or industry requesting an exception to the clean air health standards to agree to a timetable for purchase and installment of best available emission control equipment. But in at least two areas, the bill moves too far with too little serious thought. Acting hastily will, I fear, only result in unnecessary danger to the public health with little or no energy savings.

First, H.R. 11450 will allow the Administrator of the new Federal Energy Administration to prevent the burning of natural gas or petroleum by any major fuel-burning installation (including existing electric generating plants) without first making any attempt to share clean fuels on the basis of environmental need. If this authority is exercised, as the President has stated he intends, many plants will be required to convert to the burning of coal, a move that may well result in emissions beyond safe levels. Ordering the widespread conversion of plants from oil to coal before determining the amount of low-sulfur fuel oils and before serious attempts are made to allocate those clean fuels to critical areas may well result in the needless fouling of our cities' air.

Second, the Committee bill would allow for the first time, the use of intermittent emission controls (rather than permanent, continuous emission reduction equipment) beyond this winter's immediate crisis

to control pollution. One form of intermittent controls would allow, for instance, industry to capture and store large amounts of pollution, for release at times of favorable weather conditions.

Whether to allow intermittent emission controls over the long-term is one of the toughest, most complex issues to face the Public Health and Environment Subcommittee during its review of the Clean Air Act scheduled for early in the Second Session of this Congress. Presently, it is too early to determine whether intermittent controls are effective and enforceable. We do know, however, that they are difficult to monitor and that it will likely be quite simple to make honest mistakes resulting in frequent and serious violations of health standards.

This is a step that should not be taken until and unless the Public Health and Environment Subcommittee has an opportunity in the months immediately ahead to study this complex issue. To allow the use of intermittent controls prior to full Congressional analysis and debate may unnecessarily expose large numbers of Americans to dangerous levels of poisons, such as sulfur dioxide, in the air they breathe.

I believe Americans are willing to do all they are asked in helping the nation cope with the energy crisis. But they should not and will not accept a legislative hodge-podge such as H. R. 11450 which grants sweeping powers to the President, does not provide sufficient assurances that Americans' jobs will be protected, and hastily attaches ill-conceived amendments to the air quality standards designed to protect the public health.

I am hopeful the House of Representatives will correct the serious deficiencies contained in the National Energy Emergency Act as reported by the Committee. It would be a serious mistake not to make these changes.

H. JOHN HEINZ, III.

H. R. 11882

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 11, 1973

Mr. STAGGERS introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To assure, through energy conservation, end-use allocation of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act, including the following table of contents, may
4 be cited as the "Energy Emergency Act".

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1 TITLE I—ENERGY EMERGENCY AUTHORITIES

2 SEC. 101. PURPOSE.

3 The purpose of this Act is to call for proposals for energy
 4 emergency conservation measures and to authorize specific
 5 temporary emergency actions to be exercised to assure that
 6 the essential needs of the United States for fuels will be met
 7 in a manner which, to the fullest extent practicable, (1) is
 8 consistent with existing national commitments to protect and
 9 improve the environment, (2) minimizes any adverse impact

1 on employment, (3) provides for equitable treatment of all
2 sectors of the economy, and (4) maintains vital services
3 necessary to health, safety, and public welfare.

4 **SEC. 102. DEFINITIONS.**

5 For purposes of this Act :

6 (1) The term "State" means a State, the District of
7 Columbia, Puerto Rico, or any territory or possession of
8 the United States.

9 (2) The term "petroleum product" means crude
10 oil, residual fuel oil, or any refined petroleum product
11 (as defined in the Emergency Petroleum Allocation Act
12 of 1973).

13 (3) The term "United States" when used in the
14 geographical sense means the States, the District of
15 Columbia, Puerto Rico, and the territories and posses-
16 sions of the United States.

17 (4) The term "Administrator" means the Adminis-
18 trator of the Federal Energy Administration.

19 **SEC. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM**
20 **ALLOCATION ACT OF 1973.**

21 (a) Section 4 of the Emergency Petroleum Allocation
22 Act of 1973 is amended by adding at the end thereof the
23 following new subsections:

24 "(h) (1) If the President finds that, without such
25 action, the objectives of subsection (b) cannot be attained,

1 he may promulgate a rule which shall be deemed a part of
2 the regulation under subsection (a) and which shall pro-
3 vide, consistent with the objectives of subsection (b), an
4 ordering of priorities among users of crude oil, residual
5 fuel oil, or any refined petroleum product, and for the as-
6 signment to such users of rights entitling them to obtain any
7 such oil or product in precedence to other users not similarly
8 entitled. A top priority in such ordering shall be the main-
9 tenance of vital services (including, but not limited to new
10 housing construction, education, health care, hospitals, pub-
11 lic safety, energy production, agriculture, and transporta-
12 tion services, which are necessary to the preservation of
13 health, safety, and the public welfare).

14 . “(2) The President shall, by order, in furtherance of
15 the rule authorized pursuant to paragraph (1) of this sub-
16 section and consistent with the attainment of the objectives in
17 subsection (b) of this section, cause such adjustments in the
18 allocations made pursuant to the regulation under subsection
19 (a) as may be necessary to provide for the allocation of
20 crude oil, residual fuel oil, or any refined petroleum product
21 in such manner and in such amounts to permit such users
22 to obtain any such oil or product based upon such entitle-
23 ments.

24 “(3) The President shall provide for procedures by
25 which any user of such oil or product for which priorities

1 and entitlements are established under paragraphs (1) and
2 (2) of this subsection may petition for review and reclassi-
3 fication or modification of any determination made under
4 such paragraphs with respect to his priority or entitlement.
5 Such procedures may include procedures with respect to local
6 boards as may be established pursuant to section 109 (c)
7 of the Energy Emergency Act.

8 “(4) The President may, by order or rule (which rule
9 shall be deemed a part of the regulation under subsection
10 (a)) require adjustments in the processing operations of
11 any refinery in the United States with respect to the propor-
12 tions of residual fuel oil or any refined petroleum products
13 produced through such operations if he finds that such adjust-
14 ments are necessary to assure the production of residual fuel
15 oil or any refined petroleum product in such proportions
16 necessary to attain the objectives of subsection (b) of this
17 section.

18 “(5) The President shall consult with the Department
19 of Labor, and if there is an increase in the level of unem-
20 ployment from the level of unemployment in 1973 based
21 upon the average 1973 figures and such increase reasonably
22 results from energy shortages, then the President is urged
23 to take such actions consistent with the provisions of this Act,
24 as he is authorized to take under this Act and any other
25 Acts to encourage full production by the domestic energy

1 industry at levels of investment return which make possible
2 the expansion of facilities required to assure against a pro-
3 traction in any such increased levels of unemployment.

4 “(6) For purposes of this subsection, the term ‘alloca-
5 tion’ shall not be construed to exclude the end-use allocation
6 of gasoline to individual consumers.

7 “(i) (1) The President may, by order, require the pro-
8 duction of crude oil at the producer level at the maximum
9 efficient rate of production.

10 “(2) The President shall consult with the Department
11 of the Interior and with appropriate State governments
12 in order to determine which producers should be reasonably
13 required to produce crude oil at the rates specified in para-
14 graph (1) of this subsection.

15 “(3) For purposes of this subsection, maximum efficient
16 rate with respect to any oilfield other than oilfields on
17 Federal lands shall be such rate as is determined by the State
18 in which such oilfield is located, and with respect to any oil-
19 field on Federal land shall be such rate as is determined by
20 the Department of the Interior, except that the President may
21 establish after consultation with such State (or with the De-
22 partment of the Interior, in the case of any oilfield on Fed-
23 eral lands) a maximum efficient rate higher than the rate
24 established by the State or by the Department of the Interior
25 if he determines that such higher maximum efficient rate will

1 not unreasonably impair the ultimate recovery of crude oil
2 or natural gas from any such oilfield under sound engi-
3 neering and economic principles.

4 “(4) The President shall direct the appropriate Federal
5 agency to require that all existing and future development
6 plans for oilfields involving Federal leases, permits or
7 other arrangements for production of crude oil on Federal
8 lands shall include or be amended to include effective provi-
9 sions for the secondary recovery of crude oil, and, to the great-
10 est extent technologically possible consistent with sound engi-
11 neering and economic principles, for the tertiary recovery of
12 crude oil, before the well is abandoned.

13 “(j) Notwithstanding any other provision of this Act,
14 or any provision of State or local law with respect to the
15 allocation of gasoline or diesel fuel, there shall be provision
16 for adequate supplies of gasoline, diesel fuel related products
17 for essential and purposeful mobility of persons in the armed
18 services of the United States on military orders, for house-
19 hold moves related to employment or displacement due to
20 unemployment, and for moves due to health, educational
21 opportunities, or other good and sufficient reasons.”.

22 (b) Section 4 (b) (1) (G) of the Emergency Petroleum
23 Allocation Act of 1973 is amended to read as follows:

24 “(G) allocation of residual fuel oil and refined
25 petroleum products in such amounts and in such manner

1 as may be necessary for the maintenance of exploration
2 for, and production or extraction of—

3 “(1) fuels, and

4 “(2) minerals essential to the requirements of
5 the United States,

6 and for required transportation related thereto;”.

7 (c) Section 4 (c) (3) of the Emergency Petroleum Al-
8 location Act of 1973 is amended by striking out “or” imme-
9 diately before “(B)” and by inserting immediately before
10 the period at the end thereof the following: “, or (C) to take
11 into account lessened use of crude oil, residual fuel oil, and
12 refined petroleum products prior to the date of enactment of
13 this Act as a result of unusual regional climatic variations
14 within the United States”.

15 (d) Section 4 (g) (1) of the Emergency Petroleum Al-
16 location Act of 1973 is amended by striking out “February
17 28, 1975” in each case the term appears and inserting in
18 each case “May 15, 1975”.

19 **SEC. 104. FEDERAL ENERGY ADMINISTRATION.**

20 (a) There is hereby established a Federal Energy Ad-
21 ministration, to be headed by a Federal Energy Adminis-
22 trator, who shall be appointed by the President by and with
23 the advice and consent of the Senate. The Administrator
24 may be removed by the President for cause. The Adminis-
25 trator shall serve for a term ending on May 15, 1975.

1 Vacancies in the office of Administrator shall be filled for
2 the remainder of the term of the original Administrator, in
3 the same manner as the original appointment.

4 (b) The Administrator shall be compensated at the rate
5 provided for level II of the Executive Schedule. Subject to
6 the Civil Service and Classification provisions of title 5,
7 United States Code, the Administrator may employ such
8 personnel as he deems necessary to carry out his functions.

9 (c) Effective on the date on which the Administrator
10 first takes office (or, if later, on January 1, 1974), all func-
11 tions, powers, and duties of the President under sections 4,
12 5, 6, and 9 of the Emergency Petroleum Allocation Act of
13 1973 (as amended by sections 103, 117, and 118 of this
14 Act), and of any officer, department, agency, or State (or
15 officer thereof) under such sections (other than functions
16 vested by section 6 of such Act in the Federal Trade Com-
17 mission, the Attorney General, or the Antitrust Division of
18 the Department of Justice), are transferred to the Admin-
19 istrator. All personnel, property, records, obligations, and
20 commitments used primarily with respect to functions trans-
21 ferred under the preceding sentence shall be transferred to
22 the Administrator.

23 (d) Section 27 (k) of the Consumer Product Safety Act
24 shall apply to the Administrator. The Federal Energy Ad-
25 ministration shall be considered an independent regulatory

1 agency for purposes of chapter 35 of title 44, United States
2 Code.

3 **SEC. 105. ENERGY CONSERVATION PLANS.**

4 (a) Within 30 days of the date of enactment of this Act
5 and from time to time thereafter, the Administrator shall pro-
6 pose one or more energy conservation plans which shall be
7 designed to supplement and be coordinated with actions taken
8 and proposed to be taken under other authority of this or
9 other Acts to result in a reduction of energy consumption to
10 a level which can be supplied by available energy resources.
11 For purposes of this section the term "energy conservation
12 plan" means proposed plans for transportation controls (in-
13 cluding highway speed limits, and plans for maximizing car
14 pooling arrangements in all communities and business where
15 applicable), priority allocation plans for energy conserving
16 recyclable raw materials for use within the United States,
17 or such other restrictions on the public or private use of
18 energy (including limitations on energy consumption of busi-
19 nesses) which are necessary to reduce energy consumption.
20 The Administrator shall submit such plans to the Congress
21 for appropriate action.

22 (b) Energy conservation plans shall provide for the
23 maintenance of vital services (including new housing con-
24 struction, education, health care, hospitals, public safety,
25 energy production, agriculture, and transportation services,

1 which are necessary to the preservation of health, safety, and
2 the public welfare).

3 (c) Plans submitted by the Administrator pursuant to
4 subsection (a) of this section shall provide that, to the max-
5 imum extent practicable, proposed restrictions on the use of
6 energy shall be designed to be carried out in such manner so
7 as to be fair and to create a reasonable distribution of the
8 burden of such restrictions on all sectors of the economy,
9 without imposing an unreasonably disproportionate share of
10 such burden on any specific industry, business or commercial
11 enterprise, or on any individual segment thereof.

12 **SEC. 106. COAL CONVERSION AND ALLOCATION.**

13 (a) **PROHIBITION OF USE OF NATURAL GAS AND**
14 **PETROLEUM PRODUCTS BY CERTAIN USERS.**—The Ad-
15 ministrator shall, to the extent practicable and consistent
16 with the objectives of this Act, by order, after balancing on
17 a plant-by-plant basis the environmental effects of use of
18 coal against the need to fulfill the purposes of this Act, pro-
19 hibit, as its primary energy source, the burning of natural
20 gas or petroleum products by any major fuel-burning in-
21 stallation (including any existing electric powerplant)
22 which, on the date of enactment of this Act, has the capa-
23 bility and necessary plant equipment to burn coal. Any
24 installation to which such an order applies shall be permitted
25 to continue to use coal as provided in subsection (b) of this

1 section until January 1, 1980. To the extent coal supplies
2 are limited to less than the aggregate amount of coal sup-
3 plies which may be necessary to satisfy the requirements of
4 those installations which can be expected to use coal (in-
5 cluding installations to which orders may apply under this
6 subsection), the Administrator shall prohibit the use of
7 natural gas and petroleum products for those installations
8 where the use of coal will have the least adverse environ-
9 mental impact.

10 A prohibition on use of natural gas and petroleum prod-
11 ucts under this subsection shall be contingent upon the avail-
12 ability of coal, coal transportation facilities, and the mainte-
13 nance of reliability of service in a given service area. The
14 Administrator may require that fossil-fuel-fired electric
15 powerplants in the early planning process, other than com-
16 bustion gas turbine and combined cycle units, be designed
17 and constructed so as to be capable of using coal as a primary
18 energy source instead of or in addition to other fossil fuels.
19 No fossil-fuel-fired electric powerplant may be required under
20 this section to be so designed and constructed, if (1) to do so
21 would be unreasonable or would result in an impairment of
22 reliability or adequacy of service, or (2) if an adequate and
23 reliable supply of coal is not available and is not expected to
24 be available. In considering whether a conversion require-
25 ment under this subsection is unreasonable, the Administrator

1 shall consider the existence and effects of any contractual
2 commitment for the construction of such facilities and the
3 availability of compensation or tax relief for any capital loss
4 incurred through such conversion requirement.

5 (b) USE OF COAL.—

6 (1) Except as provided in paragraph (2), any
7 electric powerplant (A) which is prohibited from using
8 petroleum products or natural gas by reason of an order
9 issued under subsection (a), and (B) which converts to
10 the use of coal, shall not, until January 1, 1980, be
11 prohibited from burning coal which is available to such
12 source by any fuel or emission limitation, if the Adminis-
13 trator of the Environmental Protection Agency approves,
14 after notice to interested persons and opportunity for
15 presentation of views (including oral presentation), a
16 plan submitted by the person who operates such plant.
17 A plan submitted under the preceding sentence shall be
18 approved only if it provides (A) that such plant shall
19 make such use of control technology as may be necessary
20 to enable such plant to come into compliance with the
21 fuel or emission limitation to which the suspension ap-
22 plied, as expeditiously as practicable; (B) for a schedule
23 described in section 119 (a) (2) (A) (iii) of the Clean
24 Air Act (excluding section 119 (a) (2) (B) (i)); and
25 (C) that such plan will, during the period beginning on

1 the effective date of the approval of the plan and ending
2 at the time such plant complies with such stationary
3 source of fuel or emission limitation, comply with in-
4 terim requirements which the Administrator of the En-
5 vironmental Protection Agency shall prescribe to assure
6 that such source will not materially contribute to a
7 significant risk to public health. Such Administrator shall
8 approve any such plan before May 15, 1974, or if later
9 60 days after such plan is submitted.

10 (2) Nothing in paragraph (1) shall prohibit the
11 Administrator of the Environmental Protection Agency
12 or a State or local agency, to the extent practicable after
13 notice to interested persons and opportunity for presenta-
14 tion of views (including oral presentations), (A) from
15 prohibiting the use of coal by such a source to which
16 paragraph (1) applies if such Administrator or any
17 such agency determines that the use of coal by such
18 source is likely to materially contribute to a significant
19 risk to public health; or (B) from requiring such source
20 to use a particular grade of coal of any particular type,
21 grade, or pollution characteristic, if such coal is avail-
22 able to such source.

23 (3) For purposes of this subsection, the term "fuel
24 or emission limitation" means any emission limitation,
25 schedule, or timetable for compliance, or other require-

1 ment, which is prescribed under any Federal, State, or
2 local law or regulation (including the Clean Air Act)
3 and which is designed to limit stationary source emissions
4 resulting from combustion of fuels (including a restric-
5 tion on the use or content of fuels).

6 (c) **COAL ALLOCATION AUTHORITY.**—The Adminis-
7 trator may by rule prescribe a system for allocation of coal to
8 users thereof in order to attain the objectives specified in
9 section 4 (b) of the Emergency Petroleum Allocation Act of
10 1973 and of section 205 of this Act. Any rule prescribed
11 under this subsection shall be deemed to be part of the
12 regulation.

13 (d) **EXPIRATION.**—The authority under this section
14 (other than subsection (b)) shall expire on May 15, 1975.

15 **SEC. 107. REGULATED CARRIERS.**

16 (a) **AGENCY AUTHORITY.**—The Interstate Commerce
17 Commission (with respect to common or contract carriers
18 subject to economic regulation under the Interstate Com-
19 merce Act), the Civil Aeronautics Board, and the Fed-
20 eral Maritime Commission shall, for the duration of the
21 period beginning on the date of enactment of this Act and
22 ending on May 15, 1975, have authority to take any action
23 for the purpose of conserving energy consumption in a
24 manner found by such Commission or Board to be con-
25 sistent with the objectives and purposes of the Acts admin-

1 istered by such Commission or Board on its own motion or
2 on the petition of the Administrator which existing law per-
3 mits such Commission or Board to take upon the motion
4 or petition of any regulated common or contract carrier or
5 other person.

6 (b) The Interstate Commerce Commission shall, by ex-
7 pedited proceedings, adopt appropriate rules under the In-
8 terstate Commerce Act which eliminate restrictions on the
9 operating authority of any motor common carrier of prop-
10 erty which require excessive travel between points with re-
11 spect to which such motor common carrier is authorized by
12 the Commission to provide service. Such rules shall assure
13 continuation of essential service to communities served by
14 any such motor common carrier.

15 (c) REPORTS.—Within sixty days after the date of en-
16 actment of this Act, the Civil Aeronautics Board, the Federal
17 Maritime Commission, and the Interstate Commerce Com-
18 mission shall report separately to the appropriate commit-
19 tees of the Congress on the need for additional regulatory
20 authority in order to conserve fuel during the period begin-
21 ning on the date of enactment of this Act and ending on May
22 15, 1975 while continuing to provide for the public con-
23 venience and necessity. Each such report shall identify with
24 specificity—

25 (1) the type of regulatory authority needed;

- 1 (2) the reasons why such authority is needed;
- 2 (3) the probable impact on fuel conservation of such
- 3 authority;
- 4 (4) the probable effect on the public convenience
- 5 and necessity of such authority; and
- 6 (5) the competitive impact, if any, of such
- 7 authority.

8 Each such report shall further make recommendations with
9 respect to changes in any existing fuel allocation programs
10 which are deemed necessary to provide for the public con-
11 venience and necessity during such period.

12 **SEC. 108. DELEGATION OF AUTHORITY.**

13 The Administrator may delegate all or any of his func-
14 tions under this Act or the Emergency Petroleum Allocation
15 Act of 1973 to any officer or employee of the Federal Energy
16 Administration as he deems appropriate. The Administrator
17 may delegate any of his functions relative to implementation
18 of regulations and energy conservation plans under this Act
19 or the Emergency Petroleum Allocation Act of 1973 to
20 officers of a State, or to State or local boards of balanced
21 composition reflecting the makeup of the community as a
22 whole. Section 5 (b) of the Emergency Petroleum Alloca-
23 tion Act of 1973 is repealed, effective on the effective date
24 of transfer of functions under such Act to the Administrator.

1 **SEC. 109. ADMINISTRATION.**

2 **(a) ADMINISTRATIVE PROCEDURE.—**

3 (1) Subject to paragraphs (2), (3), and (4) of
4 this subsection, the provisions of subchapter II of chap-
5 ter 5 of title 5, United States Code, shall apply to any
6 rule or order (including a rule or order issued by a State
7 or officer thereof) under this title except with respect to
8 any rule or order pursuant to section 107 of this Act,
9 section 205 (a), (b), (c), and (d) of this Act, or sec-
10 tion 4 (h) or 4 (i) of the Emergency Petroleum Alloca-
11 tion Act of 1973, or under the authority of any energy
12 conservation plan.

13 (2) Notice of any proposed rule or order described
14 in paragraph (1) shall be given by publication of such
15 proposed rule or order in the Federal Register. In each
16 case, a minimum of ten days following such publication
17 shall be provided for opportunity to comment; except
18 that the requirements of this paragraph as to time of
19 notice and opportunity to comment may be waived
20 where strict compliance is found to cause serious impair-
21 ment to the operation of the program to which such
22 rule or order relates and such findings are set out in
23 detail in such rule or order.

24 (3) In addition to the requirements of paragraph

(2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection

1 (b) when such denial becomes final. The officer or
2 agency shall, in rules prescribed by it, establish appro-
3 priate procedures, including a hearing where deemed ad-
4 visable, for considering such requests for action under this
5 paragraph.

6 (b) JUDICIAL REVIEW.—Any interested person (in-
7 cluding a State or political subdivision thereof) may obtain
8 judicial review of any rule or order described in subsection
9 (a) (1) of this section in accordance with chapter 7 of title 5,
10 United States Code. Review of a rule may be obtained in the
11 Temporary Emergency Court of Appeals. Review of a rule
12 or order shall be pursuant to the procedures of section 211 of
13 the Economic Stabilization Act of 1970.

14 (c) LOCAL BOARDS.—

15 (1) The Administrator may by rule prescribe
16 procedures for State or local boards which carry out
17 functions under this Act or the Emergency Petroleum
18 Allocation Act of 1973. Such procedures shall apply to
19 such boards in lieu of subsection (a), and shall require
20 that prior to taking any action, such boards shall take
21 steps reasonably calculated to provide notice to persons
22 who may be affected by the action, and shall afford an
23 opportunity for presentation of views (including oral
24 presentation of views where practicable) at least 10 days
25 before taking the action. Such boards shall be of balanced

1 composition reflecting the makeup of the community as
2 a whole.

3 **SEC. 110. PROHIBITED ACTS.**

4 It shall be unlawful—

5 (1) for any person, who is engaged in the business
6 of marketing or distributing diesel fuel to trucks on bona
7 fide cargo runs, to deny to such trucks full fill-ups of
8 fuel, unless—

9 (A) there is in effect under this Act, the Emer-
10 gency Petroleum Allocation Act of 1973, or any
11 other Act an end-use allocation regulation which re-
12 stricts such full fill-ups by such person to such trucks,
13 or

14 (B) such person has no such fuel available for
15 sale;

16 (2) to violate any order under section 106;

17 (3) to violate any rule under the first sentence of
18 section 123; or

19 (4) to violate any order of the Renegotiation Board
20 issued pursuant to its authority under section 117 of this
21 Act.

22 **SEC. 111. ENFORCEMENT.**

23 (a) **CRIMINAL PENALTY.**—Whoever willfully violates
24 any provision of section 110 shall be fined not more than
25 \$5,000 for each violation.

1 (b) CIVIL PENALTY.—Whoever violates any provision
2 of section 110 shall be subject to a civil penalty of not more
3 than \$2,500 for each violation.

4 (c) INJUNCTIVE AND OTHER RELIEF.—Whenever it
5 appears to any person authorized by the Administrator to
6 exercise authority under this Act that any individual or orga-
7 nization has engaged, is engaged, or is about to engage in
8 acts or practices constituting a violation of any provision of
9 section 110, such person may request the Attorney General
10 to bring an action in the appropriate district court of the
11 United States to enjoin such acts or practices, and upon a
12 proper showing a temporary restraining order or a prelim-
13 inary or permanent injunction shall be granted without bond.
14 Any such court may also issue mandatory injunctions com-
15 manding any person to comply with such provision of section
16 110.

17 (d) PRIVATE RELIEF.—Any person suffering legal
18 wrong because of any act or practice arising out of any vio-
19 lation of section 110 may bring an action in a district court
20 of the United States, without regard to the amount in con-
21 troversy, for appropriate relief, including an action for a
22 declaratory judgment or writ of injunction. Nothing in this
23 subsection shall authorize any person to recover damages.

24 SEC. 112. GRANTS TO STATES.

25 There are authorized to be appropriated such sums as

1 may be necessary for the purpose of making grants to States
2 to which the Federal Energy Administrator has delegated
3 authority under section 109 of this Act. The Administrator
4 shall make such grants upon such terms and conditions as
5 he may prescribe.

6 **SEC. 113. FAIR MARKETING OF PETROLEUM PRODUCTS.**

7 The Emergency Petroleum Allocation Act of 1973 is
8 amended by adding at the end thereof the following new
9 section:

10 **"FAIR MARKETING OF REFINED PETROLEUM PRODUCTS**

11 **"SEC. 8. (a) As used in this section:**

12 **"(1) The term 'commerce' means commerce be-**
13 **tween a State and a point outside such State.**

14 **"(2) The term 'marketing agreement' means that**
15 **portion of an agreement or contract between a refiner**
16 **and a branded independent marketer (A) which au-**
17 **thorizes such marketer to market or distribute refined pe-**
18 **troleum products using a trademark, trade name, service**
19 **mark, or other identifying symbol or name owned by**
20 **such refiner, or (B) which authorizes such marketer to**
21 **occupy premises owned, leased, or in any way controlled**
22 **by a refiner, for the purposes of marketing or distributing**
23 **refined petroleum products, or (C) which authorizes**
24 **both.**

25 **"(3) The term, 'person' means an individual or**

1 a corporation, partnership, joint-stock company, busi-
2 ness trust, association, or any organized group of indi-
3 viduals whether or not incorporated.

4 “(4) The term ‘refiner’ includes any person (other
5 than a branded independent marketer) who controls,
6 is controlled by, or under common control with, a re-
7 finer. For purposes of the preceding sentence, the term
8 ‘control’ does not include control solely by means of a
9 supply contract.

10 “(5) The term ‘State’ means any State, the District
11 of Columbia, the Commonwealth of Puerto Rico, and
12 any organized territory or possession of the United
13 States.

14 “(6) The term ‘to terminate’ includes to cancel or
15 to fail to renew.

16 “(b) The following conduct is prohibited:

17 “(1) A refiner shall not terminate a marketing
18 agreement unless he furnishes prior notification pursu-
19 ant to this paragraph to each branded independent mar-
20 keter to which such termination applies. Such notifica-
21 tion shall be in writing and shall be accomplished by cer-
22 tified mail to each such marketer; shall be furnished not
23 less than ninety days prior to the date on which such
24 agreement will be terminated; and shall contain a state-
25 ment of intention to terminate together with the reasons

25

1 therefor, the date on which such termination shall take
2 effect, and a statement of any remedy or remedies avail-
3 able to such marketer under this section, together with a
4 summary of the provisions of this section.

5 “(2) A refiner shall not terminate a marketing
6 agreement unless the branded independent marketer to
7 which such termination applies failed to comply substan-
8 tially with one or more essential and reasonable require-
9 ments of such marketing agreement or failed to act in
10 good faith in carrying out the terms of such agreement;
11 except that such refiner may terminate such agreement if
12 he does not, during the 3-year period which begins on the
13 date of such termination, engage in the sale of any refined
14 petroleum product in commerce for sale other than for
15 resale in any relevant market within such branded inde-
16 pendent marketer operated.

17 “(c) (1) A branded independent marketer may main-
18 tain a suit under this section against a refiner who engages in
19 conduct prohibited by subsection (b), whose actions affect
20 commerce, and whose products he sells or has sold, directly
21 or indirectly, under a marketing agreement.

22 “(2) The court may award to any branded independent
23 marketer actual damages resulting from the termination of
24 a marketing agreement together with such equitable relief
25 (including interim equitable relief and punitive damages) as

1 may be appropriate, including declaratory judgments and
2 mandatory or prohibitive injunctive relief. The court may,
3 unless such suit is frivolous, direct that costs, including a
4 reasonable attorney's fee, be paid by the defendant.

5 “(d) A suit under this section may be brought in the
6 district court of the United States for any district in which
7 the plaintiff resides, is found, or is doing business, without
8 regard to the amount in controversy. No suit shall be main-
9 tained under this section unless commenced within four years
10 after the date of the termination of such marketing agree-
11 ment.”.

12 **SEC. 114. VOLUNTARY ENERGY CONSERVATION AGREE-**
13 **MENTS.**

14 (a) Within fifteen days of the date of enactment of this
15 Act, the Administrator, in consultation with the Attorney
16 General and the Federal Trade Commission, shall promul-
17 gate, by rule, standards and procedures by which retail or
18 service establishments may develop and implement voluntary
19 agreements to promote energy conservation by limiting the
20 operating hours of such retail or service establishments, ad-
21 justing retail store delivery schedules, and by taking such
22 other actions as the Administrator, after consultation with the
23 Attorney General and the Federal Trade Commission, by
24 rule determines to be necessary and appropriate to accom-
25 plish the objectives of this Act.

1 (b) The standards and procedures under subsection (a)
2 shall be promulgated pursuant to section 553 of title 5,
3 United States Code. They shall provide, among other things,
4 that—

5 (i) A written copy of any agreement under this
6 section shall be submitted to the Attorney General and
7 the Federal Trade Commission and be available for
8 public inspection;

9 (ii) Meetings held to develop and implement an
10 agreement under this section shall permit attendance
11 by interested persons and shall be preceded by timely
12 notice to the Attorney General, the Federal Trade Com-
13 mission, and to the public in the affected community;

14 (iii) Interested persons shall be afforded an op-
15 portunity to present, in writing and orally, data, views,
16 and arguments at such meetings; and

17 (iv) A written summary of the proceedings of any
18 such meeting together with copies of any written data,
19 views, and arguments presented by interested persons
20 shall be submitted to the Attorney General and the Fed-
21 eral Trade Commission and be available for public
22 inspection.

23 (c) Actions taken in good faith, in accordance with this
24 section and rules promulgated hereunder, to develop and
25 implement a voluntary energy conservation agreement shall

1 not be construed to be within the prohibitions of the antitrust
2 laws of the United States, the Federal Trade Commission
3 Act, or similar State statutes.

4 (d) Any voluntary agreement entered into pursuant to
5 this section shall be submitted in writing to the Attorney
6 General 10 days before being implemented. The Attorney
7 General, at any time, on his motion or upon the request of
8 any interested person, may disapprove any such voluntary
9 agreement and thereby withdraw prospectively the immunity
10 conferred by subsection (c).

11 (e) As used in this section—

12 (i) The term “voluntary agreement” shall not per-
13 tain to, or govern the conduct of, activities relating to the
14 marketing and distribution of any petroleum product.

15 (ii) The term “retail or service establishment” shall
16 mean an establishment 75 per centum of whose annual
17 dollar volume of sales of goods or services (or both) is
18 not for resale and is recognized as retail sales or serv-
19 ices in the particular industry, as determined by the At-
20 torney General.

21 (f) The Attorney General and the Federal Trade Com-
22 mission shall each submit to the Congress and to the President
23 at least once every six months a report on the impact on com-
24 petition and on small business of the voluntary agreements
25 authorized by this section.

1 (g) The authority granted by this section (including
2 any immunity under subsection (c)) shall terminate on
3 May 15, 1975.

4 **SEC. 115. PROHIBITIONS ON UNREASONABLE ALLOCATION**
5 **REGULATIONS.**

6 Action taken under authority of this Act, the Emergency
7 Petroleum Allocation Act of 1973, or other Federal law re-
8 sulting in the allocation of refined petroleum products and
9 electrical energy among users or resulting in restrictions on
10 use of refined petroleum products and electrical energy, shall
11 be equitable, shall not be arbitrary or capricious, and shall
12 not unreasonably discriminate among users.

13 **SEC. 116. USE OF CARPOOLS.**

14 (a) The Secretary of Transportation shall encourage
15 the creation and expansion of the use of carpools as a viable
16 component of our nationwide transportation system. It is the
17 intent of this section to maximize the level of carpool partici-
18 pation in the United States.

19 (b) The Secretary of Transportation is directed to es-
20 tablish within the Department of Transportation an "Office
21 of Carpool Promotion" whose purpose and responsibilities
22 shall include—

23 (1) responding to any and all requests for informa-
24 tion and technical assistance on carpooling and carpool-

1 ing systems from units of State and local governments
2 and private groups and employees;

3 (2) promoting greater participation in carpooling
4 through public information and the preparation of such
5 materials for use by State and local governments;

6 (3) encouraging and promoting private organiza-
7 tions to organize and operate carpool systems for
8 employees;

9 (4) promoting the cooperation and sharing of re-
10 sponsibilities between separate, yet proximately close,
11 units of government in coordinating the operations of
12 carpool systems; and

13 (5) promoting other such measures that the Secre-
14 tary determines appropriate to achieve the goal of this
15 subsection.

16 (c) The Secretary of Transportation shall encourage
17 and promote the use of incentives such as special parking
18 privileges, special roadway lanes, toll adjustments, and other
19 incentives as may be found beneficial and administratively
20 feasible to the furtherance of carpool ridership, and consistent
21 with the obligations of the State and local agencies which
22 provide transportation services.

23 (d) The Secretary of Transportation shall allocate the
24 funds appropriated pursuant to the authorization of sub-
25 section (f) according to the following distribution between

1 the Federal and State or local units of government:

2 (1) The initial planning process—up to 100 percent
3 Federal.

4 (2) The systems design process—up to 100 per-
5 cent Federal.

6 (3) The initial startup and operation of a given
7 system—60 percent Federal and 40 percent State or
8 local with the Federal portion not to exceed 1 year.

9 (c) Within 12 months of the date of enactment of
10 this Act, the Secretary of Transportation shall make a re-
11 port to Congress of all his activities and expenditures pur-
12 suant to this section. Such report shall include any recom-
13 mendations as to future legislation concerning carpooling.

14 (f) The sum of \$25,000,000 is authorized to be appro-
15 priated for the conduct of programs designed to achieve the
16 goals of this section, such authorization to remain available
17 for 2 years.

18 (g) As an example to the rest of our Nation's automo-
19 bile users, the President of the United States shall take such
20 action as is necessary to require all agencies of Government,
21 where practical, to use economy model motor vehicles.

22 (h) (1) The President shall take action to require that
23 no Federal official or employee in the executive branch below
24 the level of Cabinet officer be furnished a limousine for indi-
25 vidual use. The provisions of this subsection shall not apply

1 to limousines furnished for use by officers or employees of
2 the Federal Bureau of Investigation, or to those persons
3 whose assignments necessitate transportation by limousines
4 because of diplomatic assignment by the Secretary of State.

5 (2) For purposes of this subsection, the term "limousine"
6 means a type 6 vehicle as defined in the Interim Federal
7 Specifications issued by the General Services Administra-
8 tion, December 1, 1973.

9 **SEC. 117. RESTRICTIONS ON WINDFALL PROFITS.**

10 (a) Section 4 of the Emergency Petroleum Allocation
11 Act of 1973 (as amended by section 103 of this Act) is
12 further amended by adding at the end thereof the following
13 new subsection:

14 " (k) (1) The President shall exercise his authority un-
15 der this Act and under the Economic Stabilization Act of
16 1970 so as to specify prices for sales of crude oil, refined
17 petroleum products, residual fuel oil, and coal, produced
18 in or imported into the United States, which avoid windfall
19 profits by sellers.

20 " (2) Any interested person, who has reason to believe
21 that any price (specified under any of the authorities referred
22 to in paragraph (1) of this subsection) of crude oil, refined
23 petroleum products, residual fuel oil, or coal, permits a seller
24 thereof any windfall profits, may petition the Renegotiation
25 Board (created by section 107 (a) of the Renegotiation Act

1 of 1951 and hereinafter in this subsection referred to as the
2 'Board') for a determination under subparagraph (A) or
3 (B) or paragraph (3).

4 “(3) (A) Upon petition of any interested person, the
5 Board may by rule determine, after opportunity for oral
6 presentation of views, data, and arguments, whether the price
7 (specified under any of the authorities referred to in para-
8 graph (1)) of crude oil, any refined petroleum product,
9 residual fuel oil, or coal, permits sellers thereof to receive
10 windfall profits. Upon a final determination of the Board
11 that such price permits windfall profits to be so received, it
12 shall specify a price for the sales of such item which will not
13 permit such profits to be received by such sellers. After such
14 a final determination, no higher price may be specified for
15 sales of such item (under any of the authorities specified in
16 paragraph (1)) except with the approval of the Board.

17 “(B) Upon petition of any interested person and not-
18 withstanding any proceeding or determination under sub-
19 paragraph (A), the Board may determine whether the price
20 charged by a particular seller of crude oil, any refined
21 petroleum product, residual fuel oil, or coal, permitted such
22 seller to receive windfall profits. If, on the basis of such peti-
23 tion, the Board has reason to believe that such price has
24 permitted such seller to receive windfall profits, it may order
25 such seller to take such actions (including the escrowing of

1 funds) as it may deem appropriate to assure that sufficient
2 funds will be available for the refund of windfall profits in
3 the event there is a final determination by the Board under
4 this subparagraph that such seller has received windfall
5 profits. Prior to a final determination under this subpara-
6 graph, such seller shall be afforded a hearing in accordance
7 with the procedures required by section 554 of title 5, United
8 States Code. Upon a final determination of the Board that
9 such price permitted such seller to receive windfall profits,
10 the Board shall order such seller to refund an amount equal
11 to such windfall profits to the persons who have purchased
12 from such seller the items the price of which resulted in
13 such windfall profits. If such persons are not reasonably
14 ascertainable, the Board shall order, for the purpose of
15 refunding such profits, the seller to reduce the price for
16 future sales of the item the price of which resulted in wind-
17 fall profits, to create a fund against which previous pur-
18 chases of such item may file a claim under rules which shall
19 be prescribed by the Board, or to take such other action as
20 the Board may deem appropriate.

21 “(C) Notwithstanding section 108 of the Renegotiation
22 Act of 1951 and section 211 of the Economic Stabilization
23 Act of 1970, any final determination under subparagraph
24 (A) or (B) shall be subject to judicial review in accord-
25 ance with sections 701 through 706 of title 5, United States
26 Code.

1 “(4) (A) The Board may provide, in its discretion
2 under regulations prescribed by the Board, for such con-
3 solidation as may be necessary or appropriate to carry out
4 the purposes of this subsection.

5 “(B) The Board may make such rules, regulations,
6 and orders as it deems necessary or appropriate to carry out
7 its functions under this subsection.

8 “(5) The determination and approval authority of the
9 Board under this paragraph may not be delegated or re-
10 delegated pursuant to section 107 (d) of the Renegotiation
11 Act of 1951 to any agency of the Government other than
12 an agency established by the Board.

13 “(6) For the purposes of subparagraph (B) of para-
14 graph (3), the term ‘windfall profits’ means that profit
15 (during an appropriate accounting period as determined by
16 the Board) derived from the sale of crude oil, any refined
17 petroleum product, residual fuel oil, or coal, determined by
18 the Board to be in excess of the lesser of—

19 “(A) a reasonable profit with respect to the par-
20 ticular seller as determined by the Board upon consider-
21 ation of—

22 “(i) the reasonableness of its costs and profits
23 with particular regard to volume of production;

24 “(ii) the net worth, with particular regard to
25 the amount and source of capital employed;

1 “(iii) the extent of risk assumed;

2 “(iv) the efficiency and productivity, particu-
3 larly with regard to cost reduction techniques and
4 economies of operation; and

5 “(v) other factors the consideration of which
6 the public interest and fair and equitable dealing
7 may require which may be established and published
8 by the Board; or

9 “(B) the greater of—

10 “(i) the average profit obtained by all sellers
11 for the particular item during the calendar years
12 1967 through 1971; or

13 “(ii) the average profit obtained by the partic-
14 ular seller for the particular item during such calen-
15 dar years.

16 “(7) Except as provided in paragraph (4), for the
17 purposes of this subsection, the term ‘windfall profits’ means
18 profit in excess of the average profit obtained by all sellers
19 for the particular item during the calendar years 1967
20 through 1971.

21 “(8) For the purposes of this subsection, the term ‘in-
22 terested person’ includes the United States, any State, and
23 the District of Columbia.”

24 (b) Notwithstanding any other provision of law, ad-
25 ministrative proceedings before the Board under section

1 () of the Emergency Petroleum Allocation Act of 1973
2 shall be governed by subchapter II of chapter 5 of title 5,
3 United States Code, and such proceeding shall be reviewed
4 in accordance with chapter 7 of such title.

5 **SEC. 118. IMPORTATION OF LIQUIFIED NATURAL GAS.**

6 The Emergency Petroleum Allocation Act of 1973 is
7 amended by adding at the end thereof the following new
8 section:

9 "SEC. 9. Notwithstanding the provisions of section 3
10 of the Natural Gas Act (or any other provisions of law) the
11 President may by order, on a finding that such action would
12 be consistent to the public interest, authorize on a shipment-
13 by-shipment basis the importation of liquified natural gas
14 from a foreign country: *Provided, however,* That the au-
15 thority to act under this section shall not permit the importa-
16 tion of liquified natural gas which had not been authorized
17 prior to the date of expiration of this Act and which is in
18 transit on such date."

19 **SEC. 119. DEVELOPMENT OF ADDITIONAL ELECTRIC**
20 **POWER RESOURCES.**

21 Not later than ninety days after the date of enactment
22 for this Act, the President shall prepare and submit to Con-
23 gress a plan for the development of the hydroelectric power,
24 solar energy, and geothermal resources of the United States
25 by Federal and non-Federal interests. Such a plan shall pro-

1 vide for the expeditious completion of projects already au-
2 thorized by Congress and for the planning of other projects
3 designed to utilize available hydroelectric power, solar engery,
4 and geothermal resources, including tidal power and pumped
5 storage.

6 **SEC. 120. ANTITRUST PROVISIONS.**

7 (a) Except as specifically provided in this section, no
8 provision of this Act shall be deemed to confer any immunity
9 from civil or criminal liability, or to create defenses to ac-
10 tions, under the antitrust laws.

11 (b) As used in this section, the term "antitrust laws" in-
12 cludes—

13 (1) the Act entitled "An Act to protect trade and
14 commerce against unlawful restraints and monopolies",
15 approved July 2, 1890 (15 U.S.C. 1 et seq.) ;

16 (2) the Act entitled "An Act to supplement exist-
17 ing laws against unlawful restraints and monopolies,
18 and for other purposes", approved October 14, 1914 (15
19 U.S.C. 12 et seq.) ;

20 (3) sections 73 and 74 of the Act entitled "An Act
21 to reduce taxation, to provide revenue for the Govern-
22 ment, and for other purposes", approved August 27,
23 1894 (15 U.S.C. 8 and 9) ; and

24 (4) the Act of June 19, 1936, chapter 592 (15
25 U.S.C. 13, 13a, 13b, and 21a) .

1 (c) (1) To achieve the purposes of this Act, the Admin-
2 istrator may provide for the establishment of such advisory
3 committees as he determines are necessary. Any such
4 advisory committees shall be subject to the provisions of the
5 Federal Advisory Committee Act of 1972 (5 U.S.C. app.
6 1), shall in all cases be chaired by a regular full-time Federal
7 employee, and shall include representatives of the public. The
8 meetings of such committees shall be open to the public.

9 (2) A representative of the Federal Government shall
10 be in attendance at all meetings of any advisory committee
11 established pursuant to this section. The Attorney General
12 and the Federal Trade Commission shall have advance no-
13 tice of any meeting and may have an official representative
14 attend and participate in any such meeting.

15 (3) A full and complete verbatim transcript shall be
16 kept of all advisory committee meetings and shall be taken
17 and deposited with the Attorney General and the Federal
18 Trade Commission. Such transcript shall be available for
19 public inspection in accordance with the provisions of section
20 552 of title 5 of the United States Code.

21 (d) The Administrator, subject to the approval of the
22 Attorney General and the Federal Trade Commission shall
23 promulgate, by rule, standards and procedures by which per-
24 sons engaged in the business of producing, refining, market-
25 ing, or distributing any petroleum product may develop and

1 implement voluntary agreements and plans of action to carry
2 out such agreements which the Administrator determines are
3 necessary to accomplish the objectives stated in section 4 (b)
4 of the Emergency Petroleum Allocation Act of 1973.

5 (c) The standards and procedures under subsection (d)
6 shall be promulgated pursuant to section 553 of title 5,
7 United States Code. They shall provide, among other things,
8 that—

9 (i) Such voluntary agreements and plans of action
10 shall be developed by committees, councils, or other
11 groups which include representatives of the public, and
12 shall in all cases be chaired by a regular full-time Fed-
13 eral employee;

14 (ii) Meetings held to develop a voluntary agreement
15 or a plan of action under this subsection shall permit
16 attendance by interested persons and shall be preceded by
17 timely notice with identification of the agenda of such
18 meeting to the Attorney General, the Federal Trade
19 Commission, and to the public in the affected community;

20 (iii) Interested persons shall be afforded an oppor-
21 tunity to present, in writing and orally, data, views, and
22 arguments at such meetings;

23 (iv) Except as provided in (v) below, a full and
24 complete verbatim transcript shall be kept of any meeting
25 held to develop a voluntary agreement or a plan of action

1 under this subsection and shall be taken and deposited
2 with the Attorney General and the Federal Trade Com-
3 mission. Such transcript shall be available for public in-
4 spection in accordance with the provisions of section 552
5 of title 5 of the United States Code; and

6 (v) In the case of meetings held for the sole purpose
7 of developing a voluntary agreement or a plan of action
8 which governs the retail marketing or distribution of
9 refined petroleum products, a written summary of the
10 proceedings of any such meeting together with copies of
11 any written data, views and arguments presented by in-
12 terested persons shall be submitted to the Attorney Gen-
13 eral and the Federal Trade Commission and be available
14 for public inspection in accordance with the provisions of
15 section 552 of title 5 of the United States Code.

16 (f) The Administrator, upon approval of the Attorney
17 General and the Federal Trade Commission, may exempt
18 types or classes of meetings, conferences, or communications
19 from the requirements of subsection (e) where such types
20 or classes of meetings, conferences, or communications are
21 determined to be necessary to implement any such agree-
22 ment or plan of action. Such meeting, conference, or com-
23 munication may take place and be recorded in accordance
24 with such requirements as the Administrator may prescribe
25 by rule, subject to the approval of the Attorney General

1 and the Federal Trade Commission, as consistent with the
2 purposes of this section.

3 (g) Actions taken in good faith, by persons engaged in
4 the business of producing, refining, marketing, or distribut-
5 ing any petroleum product, in accordance with this section
6 and rules promulgated hereunder, to develop and implement
7 a voluntary agreement or a plan of action to carry out a
8 voluntary agreement shall not be construed to be within the
9 prohibitions of the antitrust laws of the United States, the
10 Federal Trade Commission Act, or similar State and local
11 statutes.

12 (h) Any voluntary agreement or plan of action entered
13 into pursuant to subsection (d) and (e) of this section shall
14 be submitted in writing to the Attorney General and the
15 Federal Trade Commission 10 days before being imple-
16 mented. Such agreement or plan of action shall be available
17 for public inspection in accordance with the provisions of
18 section 552 of title 5, United States Code. The Attorney
19 General or the Federal Trade Commission, at any time, on
20 motion or upon the request of any interested person, may
21 modify, amend, disapprove or revoke any such voluntary
22 agreement or plan of action and, if revoked, thereby with-
23 draw prospectively the immunity conferred by subsection
24 (g) of this section.

25 (i) The Attorney General and the Federal Trade Com-

1 mission shall each submit to the Congress and to the Presi-
2 dent at least once every six months a report of the impact
3 of competition and on small business of actions authorized
4 by this section.

5 (j) The authority granted by this section (including
6 any immunity under subsection (g)) shall terminate on
7 May 15, 1975.

8 (k) Effective on the date of enactment of this Act, this
9 section shall apply in lieu of section 6 (c) of the Emergency
10 Petroleum Allocation Act of 1973 and all actions taken and
11 any authority or immunity granted under such section 6 (c)
12 shall be hereafter taken or granted as the case may be pur-
13 suant to this section.

14 (l) Section 708 of the Defense Production Act of 1950,
15 as amended, shall not apply to any action taken to imple-
16 ment the authority contained in this Act or the Emergency
17 Petroleum Allocation Act of 1973.

18 **SEC. 121. COMPREHENSIVE REVIEW OF EXPORT AND FOR-**
19 **EIGN INVESTMENT POLICIES.**

20 The Secretary of the Interior and the Secretary of Com-
21 merce are directed to prepare a comprehensive report of
22 (1) United States exports of petroleum products and other
23 energy sources, and (2) foreign investment in production of
24 petroleum products and other energy sources to determine
25 the consistency or lack thereof of the Nation's trade policy

1 and foreign investment policy with domestic energy conser-
2 vation efforts. Such report shall include recommendations
3 for legislation and shall be submitted to Congress within
4 ninety days after the date of enactment of this Act."

5 **SEC. 122. EMPLOYMENT IMPACT AND WORKER ASSIST-**
6 **ANCE.**

7 (a) Carrying out his responsibilities under this Act, the
8 President shall take into consideration and shall minimize, to
9 the fullest extent practicable, any adverse impact of actions
10 taken pursuant to this Act upon employment. All agencies
11 of government shall cooperate fully under their existing stat-
12 utory authority to minimize any such adverse impact.

13 (b) On or before the sixtieth day following the date of
14 enactment of this Act, the President shall report to the Con-
15 gress concerning the present and prospective impact of energy
16 shortages upon employment. Such report shall contain an
17 assessment of the adequacy of existing programs in meeting
18 the needs of adversely affected workers and shall include
19 legislative recommendations which the President deems ap-
20 propriate to meet such needs, including revisions in the un-
21 employment insurance laws.

22 **SEC. 123. EXPORTS.**

23 To the extent necessary to carry out the purpose of
24 this Act, the Administrator may under authority of this
25 Act, by rule, restrict exports of coal, petroleum products,

1 and petrochemical feedstocks, under such terms as he
2 deems appropriate. In the administration of such restric-
3 tions, the Administrator may use existing statutory authorities
4 and regulations including, but not limited to, the Export
5 Administration Act of 1969. Rules under this section shall
6 take into account the historical trading relations of the United
7 States with Canada and Mexico and shall not be inconsistent
8 with subsections (b) and (d) of section 4 of the Emergency
9 Petroleum Allocation Act of 1973.

SEC. 124. REPORT AND TERMINATION DATE.

10 (a) No later than September 1, 1974, the President shall
11 submit to Congress an interim report on the implementation
12 of this Act, together with such recommendations as he deems
13 necessary for amending or extending the authorities granted
14 in this Act or in the Emergency Petroleum Allocation Act
15 of 1973.

16 (b) Notwithstanding any other provisions of title I of
17 this Act or of the Emergency Petroleum Allocation Act of
18 1973, any authorities granted in title I of this Act or by the
19 Emergency Petroleum Allocation Act of 1973 which, but for
20 this section would expire on December 31, 1974, one year
21 after the date of enactment of this Act, or on February 28,
22 1975, shall expire on May 15, 1975.

1 TITLE II—COORDINATION WITH ENVIRON-
2 MENTAL PROTECTION REQUIREMENTS

3 SEC. 201. SUSPENSION AUTHORITY.

4 Title I of the Clean Air Act (42 U.S.C. 1857 et seq.)
5 is amended by adding at the end thereof the following new
6 section:

7 “TEMPORARY AUTHORITY TO SUSPEND CERTAIN STATION-
8 ARY SOURCE EMISSION AND FUEL LIMITATIONS

9 “SEC. 119. (a) (1) The Administrator may, for any
10 period beginning on or after the date of enactment of this
11 section and ending on or before May 15, 1974, temporary
12 suspend any stationary source fuel or emission limitation
13 as it applies to any person, if the Administrator finds that
14 such person will be unable to comply with such limitation
15 during such period solely because of unavailability of types
16 or amounts of fuels. Any suspension under this paragraph
17 and any interim requirement on which such suspension is
18 conditioned under subsection (b) shall be exempted from
19 any procedural requirements set forth in this Act or in any
20 other provision of local, State, or Federal law. The granting
21 or denial of such suspension and the imposition of an interim
22 requirement shall be subject to judicial review only on the
23 grounds specified in paragraphs (2) (B) and (2) (C) of
24 section 706 of title 5, United States Code, and shall not be
25 subject to any proceeding under section 304 (a) (2) of this
26 Act.

1 “(2) (A) After public notice and public hearing, the
2 Administrator may, for any period beginning after May 15,
3 1974, and ending not later than June 30, 1979, temporarily
4 suspend any stationary source fuel or emission limitation as
5 it applies to any person if the Administrator finds—

6 “(i) that such person will be unable to comply with
7 such limitation solely because of the unavailability of
8 types and amounts of fuels,

9 “(ii) that such suspension (in conjunction with in-
10 terim requirements under subsection (b)) will not, after
11 the applicable implementation plan deadline, result in or
12 contribute to a level of air pollutants which is greater
13 than that specified in a national primary ambient air
14 quality standard, and

15 “(iii) that such person has been placed on a schedule
16 which provides for the use of methods which the Admin-
17 istrator determines will assure continuing compliance
18 with the stationary source fuel or emission limitation as
19 soon as practicable (but no later than June 30, 1979),
20 which schedule shall include increments of progress to-
21 ward compliance with such limitation by such date.

22 “(B) (i) Any schedule under subparagraph (A) (iii)
23 shall include a date by which a contractual obligation shall
24 be entered into for an emission reduction system which has
25 been determined by the Administrator to be adequately

1 demonstrated (except that in the case of a person wishing to
2 construct and install such system himself as soon as practica-
3 ble, but not later than June 30, 1979, the Administrator may
4 approve detailed plans and specifications and increments of
5 progress for construction and installation of such a system).
6 Before the earliest date on which a person is required to
7 take any action under the preceding sentence (but not later
8 than May 15, 1977) any source may elect to have the
9 preceding sentence not apply to it; but if such election is
10 made, no suspension under this section may apply to such
11 source after May 15, 1977.

12 “(ii) For purposes of subparagraph (A) (ii) and of
13 subsection (b), the term ‘applicable implementation plan
14 deadline’ means the date on which (as of the date of enact-
15 ment of the Energy Emergency Act) a national primary
16 ambient air quality standard is required by an applicable
17 implementation plan to be attained in an air quality control
18 region.

19 “(C) Any person may obtain judicial review of a grant
20 or denial of a suspension under this paragraph and of any
21 interim requirement on which such suspension is conditioned
22 under subsection (b) by filing a petition with the United
23 States district court for any judicial district in which is lo-
24 cated any stationary source to which the action of the Ad-
25 ministrator applies. The second and third sentences of clause

1 (ii), and clauses (iii) and (iv) of section 206 (b) (2) (B)
2 of this Act shall apply to judicial review under this para-
3 graph. No proceeding under section 304 (a) (2) may be
4 commenced with respect to any action or failure to act
5 under this paragraph.

6 “(3) In issuing any suspension under this subsection,
7 the Administrator is authorized to act on his own motion
8 without application by any source or State.

9 “(b) Any suspension under subsection (a) shall be
10 conditioned upon compliance with such interim requirements
11 as the Administrator determines necessary for minimizing
12 the threat to public health which may exist prior to the
13 applicable implementation plan deadline and for assuring
14 maintenance of the national primary ambient air quality
15 standards during any portion of such suspension which may
16 be authorized after the applicable implementation plan dead-
17 line. Such interim requirements and section 110 shall not be
18 construed to preclude use of alternative or intermittent con-
19 trol measures which the Administrator determines are reliable
20 and enforceable and which he determines will permit attain-
21 ment and maintenance of the national primary ambient air
22 quality standards during the period of the suspension. Such
23 interim requirements shall include, but not be limited to,
24 (A) a requirement that the source receiving the suspension
25 comply with such monitoring and reporting requirements as

1 the Administrator determines may be necessary to determine
2 the effect on health or air quality of such suspension, (B)
3 such measures as the Administrator determines are necessary
4 to avoid an imminent and substantial endangerment to health
5 of persons, and (C) requirements that the suspension shall
6 be inapplicable during any period during which fuels or
7 emission reduction systems which would enable compliance
8 with the suspended fuel or emission limitations are in fact
9 available to that person (as determined by the Adminis-
10 trator). Such fuel shall not be required to be used if the
11 Administrator determines that the costs of changes necessary
12 to use such fuel during such period are unreasonable.

13 “(c) The Administrator may by rule establish priorities
14 under which manufacturers of emission reduction systems
15 shall provide such systems to users thereof, if he finds that
16 priorities must be imposed in order to assure that such sys-
17 tems are first provided to users in air quality control regions
18 with the most severe air pollution.

19 “(d) The Administrator shall study, and report to Con-
20 gress not later than March 31, 1974, with respect to—

21 “(1) the present and projected impact on the pro-
22 gram under this Act of fuel shortages and of allocation
23 and end-use allocation programs;

24 “(2) availability of scrubber technology (including
25 projections respecting the time, cost, and number of

1 units available) and the effects that scrubbers would have
2 on the total environment and on supplies of fuel and
3 electricity;

4 “(3) number of sources and locations which must
5 use such technology based on projected fuel availability
6 data;

7 “(4) priority schedule for implementation of scrub-
8 ber technology, based on public health or air quality;

9 “(5) evaluation of availability of technology to
10 burn municipal solid waste in these sources; including
11 time schedules, priorities, analysis of unregulated pol-
12 lutants which will be emitted and balancing of health
13 benefits and detriments from burning solid waste and
14 of economic costs;

15 “(6) projections of air quality impact of fuel short-
16 ages and allocations;

17 “(7) evaluation of alternative control strategies for
18 the attainment and maintenance of national ambient air
19 quality standards for sulfur oxides within the time frames
20 prescribed in the Act, including associated considerations
21 of cost, time frames, feasibility, and effectiveness of such
22 alternative control strategies as compared to stationary
23 source fuel and emission regulations;

24 “(8) proposed allocations of scrubber technology for
25 nonsolid waste producing systems to sources which are

1 least able to handle solid waste byproduct, technologi-
2 cally, economically, and without hazard to public health,
3 safety, and welfare; and

4 “(9) plans for monitoring or requiring variance-
5 receiving sources to monitor impact of variances on con-
6 centration of sulfur dioxide in the ambient air.

7 “(e) No State or political subdivision may require any
8 person to whom a suspension has been granted under sub-
9 section (a) to use any fuel the unavailability of which is
10 the basis of such person's suspension (except that this pre-
11 emption shall not apply to requirements identical to Federal
12 interim requirements under subsection (b) or a compliance
13 schedule under subsection (a) (2) (A) (iii), including any
14 requirement under subsection (a) (2) (B) (i)). No State or
15 political subdivision may require any person to use an emis-
16 sion reduction system for which priorities have been estab-
17 lished under subsection (c) except in accordance with such
18 priorities.

19 “(f) (1) It shall be unlawful for any person to whom a
20 suspension has been granted under subsection (a) to violate
21 any requirement on which the suspension is conditioned
22 pursuant to subsection (b).

23 “(2) It shall be unlawful for any person to violate any
24 rule under subsection (c).

25 “(3) It shall be unlawful for any person to fail to com-

1 ply with a schedule of compliance under subsection (a) (2)
2 (A) (iii), including any requirement under subsection (a)
3 (2) (B) (i).

4 “(g) For purposes of this section:

5 “(1) The term ‘stationary source fuel or emission
6 limitation’ means any emission limitation, schedule, or
7 timetable for compliance, or other requirement, which is
8 prescribed under this Act (other than section 303 111
9 (b), or 112) or contained in an applicable implementa-
10 tion plan and which is designed to limit stationary source
11 emissions resulting from combustion of fuels, including a
12 prohibition on or specification of the use of any fuel of
13 any type or grade or pollution characteristic.

14 “(2) the term ‘stationary source’ has the same
15 meaning as such term has under section 111 (a) (3).

16 “(h) Beginning 60 days after the enactment of this sec-
17 tion, the Administrator shall publish at no less than 180-day
18 intervals, in the Federal Register the following:

19 “(1) Up-to-date findings on the emission reduction
20 systems determined to be adequately demonstrated for
21 the purposes of subsection (a) (2) (B).

22 “(2) A concise summary of progress reports which
23 are required to be filed by any person operating under
24 a suspension pursuant to subsection (a) (2). Such
25 progress reports shall report on the status of compliance

1 with all requirements which have been imposed by the
2 Administrator as a condition for receiving the suspension.

3 “(3) Up-to-date findings on the impact of the sus-
4 pensions granted upon—

5 “(A) applicable implementation plans, and

6 “(B) ambient air quality in areas where any
7 person has received a suspension under subsection
8 (a) (2) of this section.”

9 **SEC. 202. IMPLEMENTATION PLAN REVISIONS.**

10 (a) **REVISIONS TO REFLECT SUSPENSIONS.**—Section
11 110 (a) of the Clean Air Act is amended—

12 (1) in paragraph (2) (B) by inserting before the
13 semicolon at the end thereof “, and provision for energy
14 conservation measures”; and

15 (2) in paragraph (3), by inserting “(A)” after
16 “(3)” and by adding at the end thereof the following
17 new subparagraph:

18 “(B) The Administrator shall review each applicable
19 implementation plan and no later than May 1, 1974, deter-
20 mine for each State whether its plan must be revised in order
21 to achieve the national primary or secondary standard which
22 the plan implements within the deadlines established under
23 paragraph (2) (A) of this subsection. In making such deter-
24 mination the Administrator shall consider any current or
25 anticipated suspensions under section 119, any action under

1 section 106 (b), and any projected shortages of fuels or
2 emission reduction systems. Plan revisions for any State
3 for which the Administrator determines its plan is inadequate
4 shall be submitted not later than July 1, 1974, and shall be
5 approved or disapproved by the Administrator, after public
6 notice and opportunity for hearing, but not later than Septem-
7 ber 1, 1974. If a plan revision (or portion thereof) is dis-
8 approved (or if a State fails to submit a plan revision),
9 the Administrator shall, after public notice and opportunity
10 for a hearing, promulgate a revised plan (or portion thereof)
11 not later than November 1, 1974.”.

12 (b) LIMITATION ON PARKING SURCHARGES.—Subsec-
13 tion (c) of section 110 of the Clean Air Act, as amended
14 (42 U.S.C. 1857 C-5) is amended by inserting “(1)”
15 after “(c)”; by redesignating paragraphs (1), (2), and
16 (3) as subparagraphs (A), (B), and (C), respectively;
17 and by adding the following new paragraph:

18 “(2) (A) The Administrator shall conduct a study and
19 shall submit a report to the Committee on Interstate and
20 Foreign Commerce of the United States House of Repre-
21 sentatives and the Committee on Public Works of the United
22 States Senate within 6 months after the enactment of this
23 paragraph on the necessity of parking surcharge regulations
24 in order to achieve national primary ambient air quality
25 standards. The study shall include an assessment of the eco-

1 nomic impact of such regulations, consideration of alter-
2 native means of reducing total vehicle miles traveled, and an
3 assessment of the impact of such regulations on other Federal
4 and State programs dealing with transportation. In the course
5 of such study, the Administrator shall consult with other
6 Federal officials including, but not limited to, the Secretary
7 of Transportation, the Administrator of the Federal Energy
8 Administration, and the Chairman of the Council on En-
9 vironmental Quality.

10 “(B) No parking surcharge regulation may be promul-
11 gated by the Administrator under paragraph (1) of this
12 subsection as a part of an implementation plan. All parking
13 surcharge regulations previously promulgated by the Ad-
14 ministrator shall be null and void upon the date of enact-
15 ment of this subsection. This subparagraph shall not prevent
16 the Administrator from approving parking surcharges if they
17 are adopted and submitted by a State as part of an imple-
18 mentation plan. The Administrator may not condition ap-
19 proval of any implementation plan submitted by a State on
20 such plan's including a parking surcharge regulation.

21 “(C) For purposes of this paragraph, the terms ‘parking
22 surcharge regulation’ means a regulation imposing or
23 requiring the imposition of any tax, surcharge, fee, or other
24 charge on parking spaces, or any other area used for the
25 temporary storage of motor vehicles.”

1 **SEC. 203. MOTOR VEHICLE EMISSIONS.**

2 (a) Section 202 (b) (1) (A) of the Clean Air Act is
3 amended by inserting after “(A)” the following: “The regu-
4 lations under subsection (a) applicable to emissions of car-
5 bon monoxide and hydrocarbons from light-duty vehicles and
6 engines manufactured during model years 1975 and 1976
7 shall contain standards which are identical to the interim
8 standards which were prescribed (as of December 1, 1973)
9 under paragraph (5) (A) of this subsection for light-duty
10 vehicles and engines manufactured during model year 1975.”

11 (b) Section 202 (b) (1) (A) of such Act is amended by
12 striking out “1975” and inserting in lieu thereof “1977”.

13 (c) Section 202 (b) (1) (B) of such Act is amended by
14 inserting after “(B)” the following: “The regulations under
15 subsection (a) applicable to emissions of oxides of nitrogen
16 from light-duty vehicles and engines manufactured during
17 model year 1976 shall contain standards which provide that
18 emissions of such vehicles and engines may not exceed 3.1
19 grams per vehicle mile. The regulations under subsection (a)
20 applicable to emissions of oxides of nitrogen from light-duty
21 vehicles and engines manufactured during model year 1977
22 shall contain standards which provide that emissions of such
23 vehicles and engines may not exceed 2.0 grams per vehicle
24 mile.”

25 (d) Section 202 (b) (1) (B) of such Act is amended by

1 striking out "1976" and inserting in lieu thereof "1978".

2 (c) Section 202 (b) (5) (A) and (B) of such Act are
3 amended to read as follows:

4 " (5) (A) At any time after September 15, 1974, and
5 before January 15, 1975, any manufacturer may file with
6 the Administrator an application requesting the suspension
7 for one year only of the effective date of any emission stand-
8 ard required by paragraph (1) (A) with respect to such
9 manufacturer for light-duty vehicles and engines manu-
10 factured in model year 1977. The Administrator shall make
11 his determination with respect to any such application within
12 60 days. If he determines, in accordance with the provisions
13 of this subsection, that such suspension should be granted,
14 he shall simultaneously with such determination prescribe
15 by regulation interim emission standards which shall apply
16 (in lieu of the standards required to be prescribed, by para-
17 graph (1) (A)) to emissions of carbon monoxide or hydro-
18 carbons (or both) from such vehicles and engines manu-
19 factured during model year 1977.

20 " (B) At any time after January 1, 1975, any man-
21 ufacturer may file with the Administrator an application
22 requesting the suspension for one year of the effective date
23 of any emission standard required by paragraph (1) (B)
24 with respect to such manufacturer for light-duty vehicles and
25 engines manufactured in model year 1978. The Administra-

1 tor shall make his determination with respect to any such
2 application within 60 days. If he determines, in accordance
3 with the provisions of this subsection, that such suspension
4 should be granted, he shall simultaneously with such deter-
5 mination prescribe by regulation interim emission standards
6 which shall apply (in lieu of the standards required to be
7 prescribed by paragraph (1) (B)) to emissions of oxides
8 of nitrogen from such vehicles and engines manufactured
9 during the model year for which such suspension is granted.
10 Any manufacturer may request additional 1 year suspensions
11 until model year 1983, beyond which no suspension may be
12 granted. Each additional request for suspension shall be
13 treated as a separate suspension decision."

14 (f) Paragraph (b) (5) (D) of section 202 of the Clean
15 Air Act is amended by adding the following new sentence:
16 'Notwithstanding the requirements of paragraphs (i) through
17 (iv) of this paragraph, the Administrator shall grant any
18 suspension requested pursuant to paragraph (5) (A) or
19 (5) (B) of this paragraph if he determines that application
20 of such standard would result in significant increase in fuel
21 consumption for such vehicles and engines.'"

22 (g) Section 202 (b) (5) (E) of the Clean Air Act is
23 repealed.

24 **SEC. 204. CONFORMING AMENDMENTS.**

25 (a) (1) Section 113 (a) (3) of the Clean Air Act is

1 amended by striking out “or” before “112 (c)”, by inserting
2 a comma in lieu thereof, and by inserting after “hazardous
3 emissions)” the following: “, or 119 (f) (relating to certain
4 requirements during suspensions and priorities).”

5 (2) Section 113 (b) (3) of such Act is amended by
6 striking out “or 112 (c)” and inserting in lieu thereof
7 “, 112 (c), or 119 (f)”.

8 (3) Section 113 (c) (1) (C) of such Act is amended
9 by striking out “or section 112 (c)” and inserting in lieu
10 thereof “, section 112 (c), or section 119 (f)”.

11 (4) Section 113 of such Act is amended by inserting
12 at the end thereof the following new subsection:

13 “(d) For the purpose of this section, the violation of
14 any provision of an approved plan under section 106 (b)
15 of the Energy Emergency Act shall be deemed a violation
16 of a ‘requirement of an applicable implementation plan dur-
17 ing any period of federally assumed enforcement’.”

18 (5) Section 114 (a) of such Act is amended by insert-
19 ing “119 or” before “303”.

20 (b) Section 116 of the Clean Air Act is amended by
21 inserting “119 (f)” before “209”.

22 **SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRON-**
23 **MENT.**

24 (a) Any allocation program provided for in title I of
25 this Act or in the Emergency Petroleum Allocation Act of

1 1973, shall, to the maximum extent practicable, include
2 measures to assure that available low sulfur fuel will be dis-
3 tributed on a priority basis to those areas of the country
4 designated by the Administrator of the Environmental Pro-
5 tection Agency as requiring low sulfur fuel to avoid or
6 minimize adverse impact on public health.

7 (b) (1) For the period beginning May 15, 1974, the
8 Administrator of the Environmental Protection Agency
9 may, after public notice and opportunity for presentation of
10 views in accordance with section 553 of title 5, United
11 States Code, and consultation with the Federal Energy
12 Administrator, issue exchange orders to any person or per-
13 sons requiring the exchange of any fuel subject to any allo-
14 cation program under title I of this Act or such Act of 1973.
15 The purpose of such exchange orders shall be to avoid or
16 minimize the adverse impact of any such allocation program
17 on public health in those areas of the country designated by
18 the Administrator of the Environmental Protection Agency
19 under subsection (a). Such Administrator may issue an
20 order under this subsection only if he finds that (A) sub-
21 stantial emission reductions will be afforded for one or more
22 emission sources in areas designated under subsection (a),
23 and (B) the costs and fuel availability impact of such order
24 will not be excessive.

25 (2) Violation of any exchange order issued under para-

1 graph (1) of this subsection shall be a prohibited act and
2 shall be subject to enforcement action and sanctions in the
3 same manner and to the same extent as a violation of any
4 requirement of an energy conservation and rationing pro-
5 gram under title I of this Act.

6 (c) In order to determine the health effects of emis-
7 sions of sulfur oxides to the air resulting from any conver-
8 sions to burning coal pursuant to section 106, the Depart-
9 ment of Health, Education, and Welfare shall, in coopera-
10 tion with the Environmental Protection Agency, conduct a
11 study of acute and chronic effects among exposed popula-
12 tions. The sum of \$2,000,000 is authorized to be appro-
13 priated for such a study.

14 (d) No action taken under this Act shall, for a period
15 of 1 year after initiation of such action, be deemed a major
16 Federal action significantly affecting the quality of the human
17 environment within the meaning of the National Environ-
18 mental Policy Act of 1969 (83 Stat. 856). However, before
19 any action under this Act that has a significant impact on the
20 environment is taken, if practicable, or in any event within 60
21 days after such action is taken, an environmental evaluation
22 with analysis equivalent to that required under section 102
23 (2) (C) of the National Environmental Policy Act, to the
24 greatest extent practicable within this time constraint, shall
25 be prepared and circulated to appropriate Federal, State, and

1 local government agencies and to the public for a 30-day com-
2 ment period after which a public hearing shall be held upon
3 request to review outstanding environmental issues. Such an
4 evaluation shall not be required where the action in question
5 has been preceded by compliance with the National Environ-
6 mental Policy Act by the appropriate Federal agency. Any
7 action taken under this Act which will be in effect for more
8 than a 6-month period (other than action taken pursuant to
9 subsection (e) of this section), or any action to extend an
10 action taken under this Act to a total period of more than 1
11 year shall be subject to the full provisions of the National En-
12 vironmental Policy Act notwithstanding any other provision
13 of this Act.

14 (e) Notwithstanding subsection (d) of this section, in
15 order to expedite the prompt construction of facilities for the
16 importation of hydroelectric energy thereby helping to reduce
17 the shortage of petroleum products in the United States, the
18 Federal Power Commission is hereby authorized and di-
19 rected to issue a Presidential permit pursuant to Executive
20 Order 10485 of September 3, 1953, for the construction,
21 operation, maintenance, and connection of facilities for the
22 transmission of electric energy at the borders of the United
23 States without preparing an environmental impact statement
24 pursuant to section 102 of the National Environmental
25 Policy Act of 1969 (83 Stat. 856) for facilities for the

1 transmission of electric energy between Canada and the
2 United States in the vicinity of Fort Covington, New York,
3 and for any other facilities for the transmission of electric
4 energy between a foreign country and the United States
5 which the Federal Power Commission finds will be subject to
6 adequate environmental review conducted by a State agency
7 pursuant to State law.

8 **SEC. 206. ENERGY CONSERVATION STUDY.**

9 The Administrator of the Federal Energy Administra-
10 tion shall conduct a study on potential methods of energy
11 conservation and, not later than 6 months after the date
12 of enactment of this Act, shall submit to Congress a report
13 on the results of such study. The study shall include, but
14 not be limited to, the following:

15 (1) the energy conservation potential of restricting
16 exports of fuels or energy-intensive products or goods,
17 including an analysis of balance of payments and foreign
18 relations implications of any such restrictions;

19 (2) federally sponsored incentives for the use of
20 public transit, including the need for authority to re-
21 quire additional production of buses or other means
22 of public transit and Federal subsidies for the dura-
23 tion of the energy emergency for reduced fares and addi-
24 tional expenses incurred because of increased service;

25 (3) alternative requirements, incentives, or disin-

centives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

1 SEC. 208. RECOMMENDATIONS FOR SITING OF ENERGY
2 FACILITIES.

3 The President shall, within 90 days after the date of
4 enactment of this Act, recommend to the Congress actions to
5 be taken by the executive branch and the Congress regard-
6 ing the problem of the siting of all types of energy produc-
7 ing facilities.

8 SEC. 209. FUEL ECONOMY STUDY.

9 Title II of the Clean Air Act is amended by redesignat-
10 ing section 213 as section 214 and by adding the following
11 new section:

12 "FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR
13 VEHICLES

14 "SEC. 213. (a) (1) The Administrator shall conduct a
15 study, and shall report to the Committee on Interstate and
16 Foreign Commerce of the United States House of Repre-
17 sentatives and the Committee on Public Works of the United
18 States Senate within 120 days following the date of enactment
19 of this section, concerning the practicability of establishing
20 a fuel economy improvement standard of 20 percent for new
21 motor vehicles manufactured during and after model year
22 1980. Such study and report shall include, but not be
23 limited to, the technological problems of meeting any such
24 standard, including the leadtime involved; the test proce-
25 dures required to determine compliance; the economic costs

1 associated with such standard, including any beneficial eco-
2 nomic impact; the various means of enforcing such stand-
3 ard; the effect on consumption of natural resources, includ-
4 ing energy consumed; and the impact of applicable safety
5 and emission standards. In the course of performing such
6 study, the Administrator shall consult with the Secretary of
7 Transportation, the Administrator of the Federal Energy
8 Administration, the Chairman of the Council on Environ-
9 mental Quality, and the Secretary of the Treasury. The Of-
10 fice of Management and Budget may review such report be-
11 fore its submission to Congress but the Office may not revise
12 the report or delay its submission beyond the date prescribed
13 for its submission, and may submit to Congress its comments
14 respecting such report. In connection with such study, the
15 Administrator may utilize the authority provided in section
16 307 (a) of this Act to obtain necessary information.

17 “(2) For the purpose of this section, the term ‘fuel econ-
18 omy improvement standard’ means a requirement of a per-
19 centage increase in the number of miles of transportation pro-
20 vided by a manufacturer’s entire annual production of new
21 motor vehicles per unit of fuel consumed, as determined by
22 the Administrator for each manufacturer. Such term shall
23 not include any requirement for any design standard or any
24 other requirement specifying or otherwise limiting the manu-
25 facturer’s discretion in deciding how to comply with the
26 fuel economy improvement standard by any lawful means.”.

INTRODUCTION IN THE HOUSE OF H.R. 11450 AND SUBSTITUTE AMENDMENT H.R. 11882, DECEMBER 12, 1973

PROVIDING FOR CONSIDERATION OF H.R. 11450, ENERGY EMERGENCY ACT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 744 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 744

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order immediately after the enacting clause is read to consider without the intervention of any point of order the text of the bill H.R. 11882 if offered as an amendment in the nature of a substitute for the bill H.R. 11450. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 11891 if offered as an amendment to said amendment in the nature of a substitute. At the conclusion of the consideration of H.R. 11450 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. LONG of Louisiana. Mr. Speaker, House Resolution 744 provides for an open rule with 3 hours of general debate on H.R. 11450, a bill directing the President to take action to assure that the essential energy needs of the United States are met.

House Resolution 744 provides that points of order against clause 27(D)(4) of rule XI of the Rules of the House of Representatives—the 3-day rule—are waived.

House Resolution 744 provides it shall be in order immediately after the enacting clause is read to consider without the intervention of any point of order the text of the bill H.R. 11882, if offered as an amendment in the nature of a substitute for the bill H.R. 11450. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 11891 if offered as an amendment to the amendment in the nature of a substitute.

H.R. 11450 creates a Federal Energy Administration, to be directed by an administrator appointed by the President with the advice and consent of the Senate. The bill also authorizes controls on end-uses

of petroleum products, calls for proposals for mandatory energy conservation measures, and provides direct steps to be taken to make more effective use of our Nation's coal resources.

Mr. Speaker, I urge adoption of House Resolution 744 in order that we may discuss and debate H.R. 11450.

Mr. KAZEN. Mr. Speaker, is it my understanding from listening to the rule that there is a committee substitute which is going to be offered on this bill?

Mr. LONG of Louisiana. Yes, sir. It is a clean committee bill that is going to be offered in the form of a substitute.

Mr. KAZEN. Are there any copies of that bill? Have any been printed?

Mr. LONG of Louisiana. The copies of the bill are on their way to the House floor at this time. The staff of the Committee on Rules informs me, and the staff of the Committee on Interstate and Foreign Commerce, that copies of the clean bill will be here shortly.

Mr. KAZEN. Is it the purpose of the Committee on Rules or possibly the Committee on Interstate and Foreign Commerce to proceed with the debate without our having a printed copy before us?

Mr. LONG of Louisiana. It is not our intention to proceed, except with the adoption of the rule for debate. The chairman of the Committee on Interstate and Foreign Commerce informs me that he would like to proceed in having the bill open for debate and then wait until such time as we have printed copies of the bill.

Mr. ECKHARDT. Is it not correct that the present printing of H.R. 11450 with its italicized sections and with its markouts constitutes exactly the language of the amendment? All the amendment does, as I understand it, is writes in single form the final bill as shown in the copy that is now available to Members, and if Members will get the copy at the back desk, they will have an exact copy of the amendment, if it is read, with the elimination of stricken-out material.

Mr. LONG of Louisiana. The gentleman from Texas is exactly correct.

Mr. ADAMS. Is H.R. 11891 the so-called waiver of conflict-of-interest provision that was testified to by Mr. Brown?

Mr. LONG of Louisiana. That is correct. It is the waiver of the conflict-of-interest provision as advocated by the gentleman from Ohio (Mr. Brown).

Mr. ADAMS. I thank the gentleman.

Mr. GROSS. Does the gentleman mean to say that the bill and the report that were made available about the middle of yesterday afternoon at the Document Room, and which I took home and tried to read last night, is not the bill that we will be considering this morning if the rule is adopted?

Mr. ECKHARDT. I thank the gentleman for yielding.

The bill that the gentleman from Iowa took home, with the interlineations and the strikeouts, is exactly the same material as will be contained in the substitute, so the gentleman's studies have been most fruitful with respect to understanding the bill.

Mr. GROSS. If the gentleman will yield further, the gentleman from Texas (Mr. Eckhardt) is saying that H.R. 11450 is not the bill the House will consider this morning if the rule is adopted?

Mr. ECKHARDT. Technically, that is correct, but it contains exactly the same matter as the substitute. The only reason for the substitute is that no motion was made in the committee to include all amendments in a single amendment, so in effect the substitute does nothing more than take the exact same language that the gentleman has in his hands and place it in a single substitute.

Mr. GROSS. Except for technical amendments.

Mr. ECKHARDT. There are no technical amendments whatsoever. It is identical.

Mr. GROSS. Does the gentleman not think this is a most irregular procedure?

Mr. ECKHARDT. No, the gentleman does not think so. The gentleman thinks it is an excellent procedure, because otherwise we would have to take up each single amendment—75 of them—separately, but the gentleman has absolute notice of precisely what the committee will urge in the substitute, because it is identical with what the gentleman has read.

Mr. GROSS. If the gentleman will yield further, I think this is probably one of the worst exhibitions of legislative insanity that we have been confronted with in a long time. Here we are tilling a brandnew field and this is sweeping legislation. Confronted with this kind of a situation, this is legislative insanity at its worst.

Am I correct in reading the rule on page 2 that there are two substitutes in order, H.R. 11882 and H.R. 11891?

Mr. LONG of Louisiana. There is one substitute in order and one amendment in the form of a substitute. There is one clean bill.

Mr. SNYDER. Which substitute is it which we have in the italicized print before us here, in H.R. 11450 which has been marked out. Which bill is that?

Mr. LONG of Louisiana. It is H.R. 11882.

Mr. SNYDER. What is H.R. 11891?

Mr. LONG of Louisiana. That is the Brown amendment. That was subsequently introduced in the form of a bill which deletes the conflict-of-interest provision with respect to employees.

Mr. SNYDER. Then H.R. 11891 is a whole new bill?

Mr. LONG of Louisiana. That is correct.

Mr. SNYDER. I thank the gentleman.

Mr. ADAMS. Mr. Speaker, I am in opposition to this rule and I shall vote against this rule and I will tell the Members precisely why this very complicated rule is before the House.

Once it was decided this bill would not have rationing in it, this bill became a Christmas tree type of bill, which is the reason for the enormous number of amendments. Every special interest wanted to have a special allocation given to it be protected from a reduction in supply.

What became even worse and what will happen on the floor today is a series of amendments were offered that were not within the jurisdiction of this committee. They were nongermane. I have often on this floor voted for amendments that were not germane when they explained, when we knew what had happened, and there had been hearings on them, and there was information about them.

The two amendments which I shall oppose today and which this rule is directed toward keeping me from raising a point of order against

are amendments—and I cannot believe this House would do it—which are going to exempt the oil companies from the antitrust laws so that they can run this program.

The bill H.R. 11891 which will be offered by the gentleman from Ohio goes even further. It is a nongermane amendment which we removed by a point of order in the committee. It would exempt the oil company executives from the conflict-of-interest laws so that not only will we have them exempt from the antitrust laws but also they will be able to come in and run the program.

I am going to point out the specific bad points in the bill and demonstrate why this rule is drawn the way it is. Our committee does not have expertise in the antitrust laws but we have antitrust exemptions in the bill. If the Members have copies of the bill in front of them, I will indicate the two sections that caused this rule to be drawn so as to keep me from striking them by a point of order. They are **sections 114 and 120**.

I will turn to the worst one which is **section 120**. The other **section** is **114** and it involves allowing the retail stores to get together and make voluntary agreements to say what hours are going to be restricted and this will determine how long some people can stay in business, and so on. But I ask the Members to turn to **section 120**, which is on page 53 of the print. There Members will notice it says "antitrust provisions." So there is no question in anybody's mind as to what we are doing here is exempting people from the antitrust laws.

There was an attempt, a good faith attempt by the gentleman from California (Mr. Moss), to try to correct this section so it would not be as bad as it was when it was first offered. I do not think the gentleman has gone nearly fast enough and I think it is a very bad situation that faces us.

If Members will look at the language that appears in the bill it appears as though the Attorney General and the FTC are going to monitor agreements. That is not going to happen. What is going to happen is that the oil company executives be authorized to get together and make agreements on distribution of petroleum products. On page 56 of the bill is the language to carry out this scheme. **[Sec. 120(e)(v).]**

It says in the scheme that sets up the antitrust law exemption that the FTC and Attorney General are going to sit in on voluntary meetings and see to it that these people do not do anything too bad to the independent marketers or those who are not in their marketing system, but on page 56 Members will notice the bill gives an exemption in **120(e)(v)** so that meetings where they are going to be dealing with a plan of action for marketing or distribution does not have to have a verbatim transcript.

They can just send in a summary that says "Fellows, we sat down and we agreed and here is what we want you to know." So there is an exemption from preparing a transcript.

Then turn to the next subsection, which is **(f)** at the bottom of page 56 of H.R. 11450 and it says that the Administrator, if he goes to the Attorney General and to FTC, and believe me, there are going to be hundreds of these plans, and neither the FTC or the Attorney General's Office is set up to police them; all the administrator has to do is go to them and then exempt all these groups from any of the protective

language in the bill; so they can get together in these meetings and decide who is going to get what amount of product and they are exempt from the antitrust laws.

What does this exemption give? Turn to **section (g)** on page 57; and (6) can be said to stand for the guts of this proposal. It says that actions taken in good faith by any person to develop a plan or implement these voluntary agreements shall not be construed to be within the prohibitions of the antitrust laws of the United States. It does not just give them a defense. It does not just give them an opportunity to plan some kind of action. It says they are outside the antitrust laws.

If we couple that with the Rules Committee protection for H.R. 11891, which I assume the gentleman from Ohio (Mr. Brown) will offer, because he offered it in committee and defended it in the Committee on Rules, there will be an exemption of oil company executives from the conflict of interest laws.

If we go back in the print of H.R. 11450 to page 55, we will find these meetings shall be attended by unnamed groups plus representatives of the public and shall be chaired by a regular full-time Federal employee. **[Sec. 120(e)(i).]**

If we exempt the oil company executives from the conflict of interest laws under the Brown amendment, they can become a regular full-time Federal employee and we have them sitting in and chairing the meetings, and if they are also granted, an exemption under the antitrust laws you can see how the big oil companies will be able to control the situation.

I will tell the Members that in the New England areas and other regions where oil is in short supply this will be a program of big oil, for big oil and by big oil.

On page 58 there is supposed to be a saving clause under **(h)** that says if these do not work right, then somebody can request they be modified and go to the Attorney General or the Federal Trade Commission and complain.

I will tell the Members, during the year of this bill, by the time somebody works their way up through the Attorney General's Office, that is when we get one, and if we get one or goes through the FTC and tries to say, "I have been hurt," he will have been out of business for about 6 months.

These independent marketers are marketers operating on small margins. The consumers are unorganized. These are the ones who will be hurt or put out of business by these voluntary agreements and the ones running the program will not be hurt.

If Members will look at my separate views, they will find who controls the refining capacity of the United States. The refining capacity of the United States is controlled by 20 oil companies. Sixty percent is controlled by less than 12 oil companies.

They will get together with their favorite distributors and the suppliers will say "OK we will serve one another's customers to be sure we are all taken care of, but if we have a bad boy who has been competing with us for years on a basis we do not like, we will not put him in the voluntary agreement or will put him down to a lower level."

As I stated to the Committee on Rules, I have defended oil companies in antitrust cases. I spent 90 days in trial on one case. I have also

been a district attorney prosecuting violations, so I know how the system works.

I believe this provision should not have been in the bill. It should not come out of the Committee on Interstate and Foreign Commerce. If you want to have it done right, send it to the Committee on the Judiciary.

I will now yield to the gentleman from Illinois (Mr. Young).

Mr. YOUNG of Illinois. Mr. Speaker, the gentleman from Washington stated that this bill would exempt big oil companies from the antitrust laws. As I was reading the section that the gentleman was referring to, **section 114** of this bill, before any voluntary energy conservation plan can be adopted and put into effect, the bill provides that they have to have an open public meeting, that a representative of the FTC has to be present, a representative of the Attorney General's Office has to be present. As I read the section the gentleman is referring to—

Mr. ADAMS. Which section is the gentleman referring to?

Mr. YOUNG of Illinois. **Section 114.**

Mr. ADAMS. **Section 114** is to exempt retail or service establishments and if that is what the gentleman is referring to I want to point out I have concentrated on **section 120** because in this limited debate I do not have time to discuss the antitrust exemptions for retail establishments.

Big oil is under **section 120.**

There is one section to exempt retail or service establishments, that is **section 114.** The oil section is **120.** If the gentleman will look at the oil exemption section that I think he wants to make comparable, it is **section 120** under (e).

In that section we give a public meeting with one hand and take the public meeting away with the other hand. I think that is bad legislating.

Mr. YOUNG of Illinois. As I read that further section, I find in **section 120**, as I read it, the Attorney General and the Federal Trade Commission have to receive a copy of such a plan and they have to report to the Congress and to the President every 6 months about the impact of competition. As I understand the antitrust laws, and the gentleman can correct me—as I understand the antitrust laws, any agreement or any arrangement which would be in restraint of trade, and energy conservation plans would be agreements which would have the effect of perhaps limiting production or dividing markets or doing other actions which would help relieve the energy shortage, those provisions would be agreements in restraint of trade, and if we did not exempt that kind of action, they could not take place and the public could lose the benefit of the energy saving provisions of the bill.

Mr. ADAMS. Mr. Speaker, I can tell the gentlemen exactly how it has been solved in the past. In the Defense Production Act, and the Emergency Oil Allocation Act we have had the Government itself say by order to individuals, "You shall do these things," and they carry out those things so that we have the public protected. That is the way we do it. We should not do it by having the oil companies get together.

Mr. LONG of Louisiana. Mr. Speaker, I would like to announce for the benefit of the Members that copies of H.R. 11882, which is the substitute, and H.R. 11891, which is the Brown amendment, are now available for distribution at this time.

Mr. Latta. Mr. Speaker, I am really at a loss to know which worm to pull out of this can to discuss first. To pass this legislation as it came out of the committee, one would have to be a real magician to tiptoe through the bureaucratic briar patch it would create without getting caught.

The committee purposefully tried to avoid the word "rationing" in this bill and they used instead some phraseology which I would like to call to the attention of the Members. On page 9 of this bill, the authority is given to the President of the United States to impose rationing. Page 9, line 20, item 6, reads as follows: "For the purposes of this subsection the term 'allocation' shall not be construed to exclude the end use allocation of gasoline to individual consumers." I might add in the committee's haste it failed to amend the bill's title as it includes the word "rationing."

My colleagues, that means rationing, and we cannot escape responsibility for it by passing the buck to the White House. I might say that the committee very clearly has not provided for any rationing program promulgated thereunder to come back to the Congress. They did, however, so provide on matters of energy conservation generally. There is a purpose for the action taken. Congress can blame the President for rationing should he exercise the authority given to him herein. The people do not want it and I do not believe that there is a need for it at this time.

I would like to call the attention of the Members to a new item which appeared on the wire yesterday quoting none other than the President's top economic adviser, Herbert Stein, Chairman of the Council of Economic Advisers, on the matter of shortages: "He told a subcommittee of Congress' Joint Economic Committee that the administration would amend its estimate in a few days."

He said "The country may be somewhat better off in energy than previously predicted."

"The calculations which we at the Council of Economic Advisers have made about the economic impact of the shortage are based on estimates available last week," Stein said.

How much higher authority do we need than that? But lo and behold, we are about to pass legislation containing glorified language authorizing the President to implement the rationing of gasoline. This would give some bureaucrats an opportunity to exert their will on the American people and give them authority to employ some 10,000 new bureaucrats to administer this program. That is what it is going to take, 10,000 new bureaucrats.

I might say, Mr. Speaker, that my mail has not reflected any interest in rationing by my constituents.

I know the newspapers would like to have rationing, according to some of their editorials, but I wonder if the newspapers know any more about the thinking of the American people than we do. We are the people's representatives.

I might say that it is high time that we take our hats off to the American people. Since the President requested voluntary action on their part to conserve energy, have they complied? Yes, they have, and the results are being shown. Gasoline consumption is down. Re-

ports indicate that we are already saving in excess of 1 million barrels of oil a day under a voluntary program.

Now, I will say to the Members that when news gets back home that the voluntary program was working, the people are not going to look kindly on a Congress which thrusts an involuntary one upon them. They will not take this type treatment sitting down.

I do not think that we ought to pass legislation at this time granting such authority. I say, give the people a chance. They know we have a problem. For this reason I opposed this rule yesterday as it passed out of the Committee on Rules.

Mr. Speaker, I might say something about the rule itself. How many votes do the Members think they had in the Committee on Rules before the proponents finally got a rule on this bill? There were no less than eight. Eight separate votes on different propositions. So there was controversy on the matter in the Committee on Rules.

Let us take a good look at this bill before we rush headlong into its passage, because I will say to the Members that there is not a single Member in this House today who can explain word for word, line for line, what is in it. And it is going to affect the lives of every single American.

This is the most important, all-inclusive bill that we will pass during this decade, believe it or not. This is important legislation, and we should not be passing it before we know what it is going to do for and to the American people.

There should be ample time for discussion. In 3 hours we will never be able to delve into all aspects of this bill.

There were over 175 amendments submitted in the Committee itself. This gives us some indication as to how much division there actually is on the bill.

Let me bring up some of the problems that we are going to face in this legislation. Every group wants to conserve fuel in the other group's backyard, and if we are going to have mandatory controls, everyone wants them on the other fellow.

We have already heard what happened when they announced an unrealistic cutback on the private airplane operations. They were about ready to close down an industry in Kansas to say nothing of its effect on the business community, so they immediately changed their position.

The tourist business in this Nation is tremendously important. The State of Michigan needs tourism. They depend on it; jobs and business depend on it. There are provisions in this bill which will leave the future of the tourist trade to the whims of some bureaucrat.

Mr. Speaker, I represent a district which borders on Lake Erie. People in this area are interested in tourism, boating, and fishing. Many jobs and businesses depend upon these recreational pursuits. The boating industry, for example, is a big industry in this Nation.

Let me just say something about that industry and what is involved.

The recreational boating business today is made up of 19,000 firms directly engaged in making and selling marine products. It provides 350,000 direct, full-time jobs. Retail sales for the industry exceed \$4 billion and the industry's sizable and growing exports provide a favorable contribution to the balance of trade.

A recent survey has revealed the following:

There are almost 2,000 manufacturers of marine products—excluding accessories.

There are 16,500 retail dealers, distributors, and so forth, of marine products.

There are 350,000 persons directly employed on a full-time basis by the marine industry.

There are approximately 100,000 part-time workers employed in the marine industry.

The marine industry's annual payroll is approximately \$1 billion.

Retail sales of boating equipment and services in 1973 are expected to exceed \$4 billion.

The industry's sizable and growing exports provide a favorable contribution to the balance of trade of this Nation. So, Mr. Speaker, we cannot hand the future of this entire industry over to some bureaucrat without adequate safeguards. Unless we do this in this and other instances, we could be sentencing many of these legitimate enterprises to their death when we pass this legislation. We do not know how they will be treated by these people but we can make sure if we take the time to properly amend this bill.

We have heard from the truckers, and, certainly the trucking industry has a legitimate gripe about all of the price gouging which has been taking place on diesel fuel. I thought we had price controls on diesel fuel. Still these truckers are being overcharged every day in some areas of the country. I believe it is high time that the Internal Revenue Service did something about it. I saw a survey the other day which found 25 percent of these businesses selling diesel fuel were overcharging. Hopefully, their grievances will be taken care of before we have another traffic tieup. I would say to the truckers that they need public support for their cause and they do great damage to that support when they inconvenience people who just happen to be on the highway when a tieup occurs.

At this point I would like to say I agree with everything he has said.

This is an appalling rule and an appalling bill. What is it about this Congress, that the minute we hear the word crisis and the second we say emergency we decide to throw up our hands and:

First, give the Executive total power over every aspect of American life;

Second, create a bureaucracy that is totally out of the control of the people;

Third, give the President the right to ration gas without the approval of their Representatives;

Fourth, bring out a bill which in its final form no one has seen until 8 p.m. the day before, in fact whose total form was not seen until this morning; and

Fifth, bring out a bill which through special rule violates all the rules of Congress by whim, entering the jurisdiction of some committees and not others.

Mr. Speaker, I am embarrassed that for excuses of recess or expediency we will pass this "pig in a poke." No one knows what is in it, no one knows what it does.

In fact in committee less than 30 seconds was allowed for each amendment. Let us for once, Mr. Speaker, be responsible. Let us know

what we are doing to our people. Let us have a policy. We must be responsible.

If we pass this rule; if we act again in ignorance, we most certainly create an act far worse than the "Bay of Tonkin."

Domestic policy is our responsibility. If we do not exercise it, the people have every right to exorcise us.

Mr. BAKER. I am concerned about the waiver of points of order. I understand all points of order are waived for the purpose of offering an amendment to substitute H.R. 11882 and also to substitute H.R. 11891. Does that mean, if those motions fail, all points of order would be waived on the bill H.R. 11450?

Mr. LATTI. You would have to waive points of order in order for these amendments to be offered. Otherwise they would be ruled out of order. If we do not pass the rule with the waiver of points of order, they will not be in order and those amendments already in the bill will be subjected to points of order.

Mr. BAKER. I ask the further question, if either of these amendments prevail and we consider a substitute bill, would all points of order be waived on that bill?

Mr. LATTI. On the amendment?

Mr. BAKER. On the substitute.

Mr. LATTI. They would be waived.

Mr. BAKER. I thank the gentleman.

Mr. LATTI. Mr. Speaker, speaking about the waiver of points of order, there is a second need for a waiver, as this committee has wandered into the jurisdiction of several other committees. There is a section dealing with excess profits in this bill. I am surprised the honorable Committee on Ways and Means was not before our Committee objecting yesterday to this provision on a jurisdictional basis. It seems to me if we are going to have an excess profits tax—and we are and there is no doubt about it—it should have been properly gone into by the Ways and Means Committee, not inserted into this bill after a minimum amount of debate in the committee. I have read suggestions that the oil industry should be required to use excess profits to explore for more oil and gas. This seems like a pretty good suggestion but I find no provision, no provision, whatsoever, in this bill which would head them in this direction. I think there is tremendous need for more exploration if we are to become self-sufficient and perhaps the Congress should be making provisions for it in this bill.

Mr. KETCHUM. Mr. Speaker, I wish to congratulate the gentleman on the statement he has made, and to indicate to the membership that I thoroughly concur with the gentleman's remarks.

Mr. Speaker, it appears to me that the exercise in which we are engaging today if we pass this bill can be described only as legislative hysteria.

Mr. GUYER. Mr. Speaker, I thank the gentleman for yielding to me, and I want to associate myself with the remarks the gentleman has made.

Mr. Speaker, I would like just to introduce one other thought with regard to rationing that I believe most specifically tells the story, and that is that on this particular weekend, I believe it was in the Cleveland Plain Dealer, the man who was the head of the rationing board in

war time in Cuyahoga County made the statement which also supported the one given by the chairman of the rationing board in Allen County, Ohio, that rationing was an absolute and dismal failure even when World War II was going on. I happened to be at a meeting less than a week ago with 175 typical Midwestern people in a small village back in Shelby County, Ohio, and I asked for a show of hands on the proposed rationing, and only 2 people out of the 175 went on record as wanting rationing.

Further, Mr. Speaker, I believe that the first order of business should be that the oil producers should set an example for this country, and to do so voluntarily, and that they should be the ones to first of all prove that they are getting maximum capacity production from their existing sources. I think that the Government also should be in line as looking for all new sources of energy at every level.

Also I think we should be trying to join hands internationally to help resolve this problem. I think part of this is due to some of the so-called do-gooders who, by their actions a few years ago, held back the flow of new resources for 4 or 5 years; and if they had not done so, I do not believe we would be in the plight that we are today, due to some of those obstructionists, sincere as they are.

Also I think we should compliment the people at large, the people who are tightening their belts. There was an article in the New York Times complimenting the American people and saying that perhaps it is a good thing once in a while to rejoin family groups, find places that you do not have to be, and once again appreciate the things close at home, strengthening church and family ties, the very things that have made America great.

I think we ought to meet this crisis with a full and meaningful discussion, and legislate toward an objective, and a time when we will not have to depend upon a few independent countries for our needs. I hope that there will be opportunity, if rationing is going to be part of this vehicle, to vote on it separately, because I do not want to have to go back to my people and tell them that we either have to have rationing or raise their taxes. Both of these things are unnecessary at this time.

Mr. GIBBONS. Mr. Speaker, I came over here this morning expecting to vote for this rule. I honestly have not had the time to read the bill. I thought everybody else had had a chance to read it, but I have been tied up on something else.

I would ask if the gentleman from Ohio is requesting us to defeat this rule in order to give the Members more time to study this bill? Is that what the gentleman wants?

Mr. LATTA. Mr. Speaker, if I had my druthers on this right now I would send it back to the committee for additional hearings with instructions to report it back next week.

Mr. GIBBONS. To the Committee on Rules?

Mr. LATTA. No. As the gentleman from Florida knows, the Committee on Rules had no jurisdiction to amend the bill in any way. The only place this can be done is on the floor or in the committee.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding me this time, and I would like to commend the gentleman for the position the gentleman has taken on this bill.

The gentleman, I believe, used the figure of 10,000 bureaucrats who would run the rationing program. Is that a figure the gentleman picked out of the air, or is that what the gentleman heard from downtown?

Mr. LATTA. I might say to the gentleman from Idaho that I do not pick my figures out of the air, and the gentleman will come to know this the longer he is here. Yes, I did get these figures from downtown.

Mr. SYMMS. I would just like to add that with probably 75 million automobiles on the road, and with the kind of system that they are talking about, that 10,000 bureaucrats could not run such an operation; it would be more likely 50,000, despite what the people may say downtown.

Mr. LATTA. I should like to say in defense of Governor Love that he appeared before our committee several weeks ago and he testified that he only had 200 employees in his shop while trying to run that operation. It is no wonder the man did not accomplish everything which is needed in a few months on the job.

Mr. SYMMS. I thank the gentleman for yielding. I did not mean to question his choice of words of "10,000 bureaucrats," although I think it is a very conservative estimate.

It is an enormous undertaking to try to ration fuel, when we have 200 million people who could very well do it in the marketplace, one at a time as they exercise freedom of choice.

If we would just get the Government out of the way, and allow liberty and the market to work.

Mr. LATTA. Before we pass on to rationing, I should like to say that I learned what the penalties would be, if this legislation becomes law, for violating the rationing regulations, meaning if one bought a stamp from his neighbor or if he gave anyone a stamp.

Rationing authority is provided to the President under the provisions of section 103 of the emergency energy bill, HR 11450 which amends section 4 of the Emergency Petroleum Allocation Act of 1973.

Under section 5 of the latter act, the penalties of the Economic Stabilization Act of 1970 apply to a violation of a rationing or other similar regulation. These penalties consist of:

1. A criminal fine of up to \$5,000 for each violation.
2. A civil penalty of up to \$2,500 for each violation.
3. Injunctive relief—any person may request the AG to bring an action. P.L. 90-151, SS 208, 209.

Mr. GIBBONS. As we discuss it around here over on this side of the aisle, I constantly hear: "Well, you know, we had to take up the Committee on Ways and Means' trade bill when we did not want to." And I respond to that question by saying, that bill has been here on the floor unamended since October 12, as I recall. Can the gentleman, who is a member of the Committee on Rules, tell me how long this particular bill has been here so we could see it and study it?

Mr. LATTA. As I understand it, we did not have access to the bill yesterday morning. It was available to the Rules Committee yesterday afternoon.

Mr. KAZEN. Would the gentleman in just capsule form tell me why he is opposing the rule?

Mr. LATTA. I do not think that the legislation is ready for House action, No. 1. No. 2, I oppose rationing at this time and the gentleman can put them in any order he likes.

I might say in conclusion, Mr. Speaker, I think it is important that we know something about some of the various amendments which are going to be offered to this bill. I have in my hand seven far reaching and important amendments to be offered. They are as follows:

1. Energy conservation plans.

In **section 105**, language should be added to restore the provision that energy conservation plans would go into effect provided Congress did not disapprove.

Broyhill (N.C.) will offer an amendment to restore language spelling out the Congressional disapproval procedure deleted in old **section 104**, found in the bill immediately preceding **section 105**. Otherwise, energy conservation plans submitted by the President would have to be enacted by law which cannot be done in a timely fashion. (See minority views.)

2. Limited anti-trust immunity provisions in the bill are needed to achieve voluntary energy conservation actions which would ordinarily be illegal. The language in the bill is narrowly drawn with ample oversight and supervision of group actions by F.T.C. and the Attorney General. Please vote NO on any amendments to delete the **section 120**.

3. Windfall profits (**section 117**).

This section is badly written and is impossible to enforce as written. The proper place to enforce any such provision is through the tax laws. Support deletion and addition of language calling for the submission of a proposal by the President and early Congressional action on the issue.

4. Amendment to the conflict of interest law (Brown of Ohio).

The new Federal Energy Administration needs 250 experts in petroleum marketing and distribution right now to assist in establishing guidelines for the allocation program. They are needed for a short time only and would go back to their employers in no later than a year.

5. Auto emissions.

The bill as reported extends 1975 auto emission standards through the 1976 model year and permits E.P.A. to suspend the scheduled requirements for an additional year provided certain conditions are met.

An amendment will be offered to **section 203** to extend the emission standards through the 1977 model year. (See additional views—Harvey).

6. Federal Energy Administration.

Section 104 authorizes a Federal Energy Administration and we are not opposed to this authorization. However, we will move to strike certain language in this section.

a. Delete language stating that the Administrator may be removed "for cause". This language could have the effect of preventing removal of an Administrator who is incompetent or ineffective.

b. Delete from the bill the waiver of requirements of the Federal Reports Act. The Federal Reports Act requires that all agencies must seek O.M.B. approval of all forms, reports, questionnaires, etc. which are submitted to the public, business, and industry seeking information. There is no need to waive this requirement for this new agency.

c. Delete the requirements for simultaneous submission of budget and legislative requests to Congress and O.M.B. As this agency is in the formative stage, this could become an administrative burden. With respect to legislative requests, the action needed to solve our energy problems will have to be taken by several agencies and departments, not just F.E.A. The President, through O.M.B. should have the opportunity to coordinate and consolidate these legislative and budget requests and to set priorities.

7. Amendments may be offered to clarify the Committee language in **section 106**—Coal conversion and allocation section.

Amendments may also be offered to clarify conflicts that could occur because of language in **section 201**—authority to suspend certain stationary source emissions and fuel requirements, and **section 205**, authorizing a shift in fuel requirements.

Many other amendments will probably be offered. Please consult with members of the committee on their effect and value. The amendments above are important, and we ask that you support them.

Mr. MURPHY of New York. I might say to my friend, the gentleman from Ohio, that H.R. 11450 was dated November 13, 1973, and

that the committee considered this legislation in great detail. It is not the first time we have dealt in this Congress with allocations. We have already passed an allocation bill. The Senate passed legislation on November 20, a far more sweeping piece of legislation. So I would say the membership certainly has been wrestling with this problem in understanding what the national energy problem is. Nobody is straining anything here. There has been an in-depth study and work done by the committee. It is complex, and we expect to have, hopefully, full colloquy and understanding of the amendments that were adopted by the committee, those things that are necessary for us at this time to meet the energy problems of the country.

The gentleman has made a very adequate case for being opposed to rationing. I was reading in the paper that there are two approaches to the problem: Either permitting rationing, or letting the prices increase to an exorbitant rate and putting a tax on it.

Is the gentleman in favor of that?

Mr. LATTA. I am absolutely opposed to higher taxes in lieu of rationing and I have so stated many times. I think such a plan would hurt the person least able to pay—the workingman—the most. I think it is absolutely ridiculous.

I might say to the gentleman, I indicated earlier that the voluntary program the President announced is working. We ought to give the American people an opportunity to let it work. I do not think we need authority for rationing at this time. We do, however, need many other sections of the bill and they should be passed without the gasoline rationing authority.

Mr. SNYDER. Mr. Speaker, if the gentleman will yield, I would like to comment we are not springing anything. The whip sent a notice bearing the number H.R. 11450 and it is dated November 13; it is the original bill that was introduced. I was receiving calls this morning asking about this bill and Members were asking what we were going to take up and they were looking for the section that were being referred to and did not find them. Those are the italicized sections we are hit with for the first time this morning and I understand the Rules Committee was hit with them for the first time yesterday afternoon. They are hitting us with plenty that is new today.

Mr. LATTA. I have indicated there were over 100 amendments.

Mr. WAGGONER. Mr. Speaker, I will say to my colleagues of the House that there is absolutely no doubt but that we have a crisis with regard to energy in this country. But those in this House today who are hollering the loudest and the longest about this crisis were the same ones who just a few months ago were saying that this was a concocted crisis, that there was no such thing as a real crisis in energy in this country.

The question for us today is what to do. Do not go too far down the road of government regulation, I warn you.

If you will think about this with me for a moment and if you read the morning Post, as I do, even the divinely inspired Washington Post wrote an editorial just a few days ago saying they were not ready to take a position about what we ought to do with regard to some of these questions, because they did not know.

But this morning they placed themselves in a position to criticize anything that we in the Congress or in the administration might do,

by saying that the administration ought to go ahead and make a decision about what it is going to do with regard to rationing.

Now, there is not any single cause for the problem we have, and there is no single answer. And we should not under the conditions which exist today overreact politically, which we are doing, nor should we overreact by overregulating everybody who has some part to play in this question of supplying energy for the people here in the United States. We should not do it, and we should let some of the examples of the past guide us.

Who of you here, when we were overreacting and creating this monster we know as the Environmental Protection Agency, ever dreamed they would do some of the things they have done which have strayed so far from the congressional intent? Who of you here today could help but agree that if we pass along to the bureaucracy all of the authority provided in this bill they are going to overreact and assume to themselves life and death control over the energy situation in America?

Do not be mislead about this legislation and who it affects. It affects every man, woman, child, home, and business in the United States of America. All Americans are going to be affected. Some adversely. I cannot imagine a proposal that will do more to destroy the free enterprise system than this.

But what is in this bill? Nobody can explain everything in this bill. For example, windfall profits are in it, and they ought to be restricted but this committee does not have jurisdiction over such matters. And the chairman of this committee cannot even define windfall profits to me. Antitrust provisions are in it. Such matters are under the jurisdiction of the Judiciary Committee. Do you know what the Committee on Rules did? They granted a rule waiving points of order. They have not only done that, but they have made a substitute in order which is not yet even available to us.

What should we do? This House is not scheduled under existing circumstances to be in session Friday. The least we can do is vote down the previous question to allow us to amend the rule, and if we cannot vote it down, we ought to vote down the rule and at least give the Members of the House 48 hours and to come back Friday. After we have had a chance to study this bill which was not even printed until yesterday, a slight delay.

I say that because I know full well eventually we have to do something to help resolve this crisis. But we ought to at least have a chance to read the bill and have time to prepare and offer intelligent amendments to provide for a workable piece of legislation. Surely after all these years 48 hours more delay will not hurt. This we have to do, or else you get ready to face it when the bureaucracy overregulates and the people overreact to what they have done and you have to face them at the polls next year saying I voted for it but I did not know it required this or that.

Mr. O'NEILL. Mr. Speaker, yesterday we moved to come in at 10 o'clock today for the sole purpose of wanting to get this bill into a conference committee as quickly as we possibly could. I do not understand the dilatory actions of the gentlemen on the Republican side of the House who are carrying this rule today.

The President sent four or five special messages on energy to this Congress. The President was on a television program recently and spoke to the people of America on this problem. I believe the gentleman from Illinois (Mr. Arends) was at the luncheon with the President and the House leadership when the President said that he would not go home—we would not go home—unless this House and the Congress passed effective energy legislation.

You have an energy bill before you today. It is different from the Senate bill, which is tough, very restrictive and puts the power to implement energy programs under the President. There is no doubt in my mind that the Senate's intent was to encourage the President to implement rationing under this power.

Presidential measures to reduce energy consumption under the rationing and conservation program of the Senate bill would have to include control of private transportation, a restriction on lighting, advertising, and recreational activities, a ban on advertising, to discourage high energy consumption, limitation of operating authorities of businesses and public service. All of the Members of the House have been called about these restrictions that appear in the bill of the other body by business people from their home community and have been told how badly the economy would be affected.

You have a House bill today which establishes an Energy Administrator to implement the mandatory fuel allocation programs and to carry out specific and comprehensive plans to meet the energy crisis. Because so many of you intend to offer amendments, we will work all day on this bill. The main thing is to get this bill, in my opinion, to a conference committee. For that reason, I hope the rule is adopted so we can work diligently on amendments, and I hope we are able to finish the bill today so we can get this matter to a conference committee as quickly as possible.

MR. ARENDS. I might say to the majority leader that many of us feel exactly the same as you do. This is such an important matter that voting against the rule is not in the best interests of this House. We should be trying to work out some kind of legislation and get the bill to conference as quickly as possible so that we can end up with some workable piece of legislation.

I certainly shall support the rule.

MR. O'NEILL. I want to thank the minority whip.

MR. LATTA. Mr. Speaker, I might say to the gentleman from Massachusetts that I do not believe it is a dilatory tactic to attempt to explain to the American people what is in this energy bill. No one can do this, I believe, in the limited time of 3 hours of general debate, and we have only 1 hour under the rule which can be used for this purpose. So I would hope that the gentleman from Massachusetts, when he revises his remarks, will properly amend them by deleting his poor choice of words.

MR. ANDERSON of Illinois. Mr. Speaker, I want to aline myself with the position that has just publicly been taken by the distinguished minority whip, the gentleman from Illinois (Mr. Arends) as well as that of the majority leader, the gentleman from Massachusetts (Mr. O'Neill).

Whether we have an energy crisis or whether we do not have an energy crisis, and whether we agree that there is a shortage of

petroleum products of 2.8 million barrels a day, or 3.5 million barrels a day, is something we can argue. However, if we defeat the rule, and refuse to indicate our willingness to stay here the rest of today and until midnight tonight, if necessary, and on tomorrow, in order to intelligently debate and discuss and amend this bill, then we are transmitting a signal to the American people that we are not very concerned about the energy crisis. We are telling them to dial down, not drive on Sunday, and all the rest, but this Congress is unwilling to come to grips with the energy crisis.

I do not like this bill in all of its aspects. I think **section 117**, the windfall proposal, is a terrible section, and I agree it ought to be either stricken out or rewritten. I am not particularly happy with some of the sections dealing with antitrust exemptions, but in all of the clatter here it seems to me that we have lost sight of one very simple, basic fact, and that is that this is an open rule. Any Member of this body can get up to his feet, seek recognition from the Chair, and offer an amendment to strike the section, or to amend it, or to do anything he likes within, of course, the parameters of the rules of the House.

So this objection that by waiving points of order we have somehow or other shackled and put handcuffs on the Members of this body to the point where they cannot work their will is simply not so.

I would repeat that when you try to draw a comprehensive piece of legislation such as the Committee on Interstate and Foreign Commerce has sought to do on an enormously complicated and complex issue such as the energy crisis, that you do end up with everything from gasoline conservation to the suspension or lifting of environmental rules, to questions involving coal conversion, rationing versus conservation. You do get into areas that impose on the jurisdiction of other committees, and that would be the House Committee on the Judiciary with regard to the antitrust laws, and the Committee on Ways and Means on this matter of windfall or excess profits.

But, I repeat, I think this Congress has the duty to act on this legislation before we go home.

I was under the impression that this Congress was going to adjourn sine die in all probability a week from tomorrow or a week from Friday. I do not want to take the responsibility of simply defeating the rule and, thereby, send out a signal to the country that we are not even willing to debate and discuss and amend and perfect this piece of legislation dealing with this enormously important question and to make an effort to contribute to a solution of the energy crisis.

Mr. MYERS. Mr. Speaker, I thank the gentleman for yielding. I think that I for one would certainly agree with everything the gentleman has said. But I wonder, has there been any agreement that there will not be any limitation of time thereby prohibiting Members from having the opportunity to discuss and thoroughly understand the bill and all amendments that will be offered?

Mr. ANDERSON of Illinois. Mr. Speaker, the gentleman from Indiana raises an important question, and I would be glad to yield at this point to the distinguished chairman of the House Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. Staggers) to give this House assurances that adequate time will be permitted to debate the bill and all amendments thereto.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman from Illinois for yielding to me. I must say that I cannot speak for all members of my

committee, nor can I speak for all of the Members of this House, but I would say I would welcome—and I think there should be—complete and full discussion on all of the issues, and that I would try to proceed toward that end.

Mr. HANNA. Mr. Speaker, I think we are here again seeing what happens when we are trying to enact legislation without having some explanation, some statement, some background of policy. It is noticeable to me that in the Senate bill the first thing they did was to set up in the administration an Energy Policy Board, also an Energy Conservation Administration. That is what we should start with.

We do not have any energy policy. What we are dealing with in this situation is a lack of production on the one hand and an overuse of a limited resource on the other hand, and we are like a bunch of blind men trying to put together a jigsaw puzzle in the bottom of a sack in the middle of the night.

The Members may be concerned that the newspapers will be after them because they do not act, but as soon as they do act, they are going to take off on them from the rear and make the back of your pants look like a lace curtain. So just use a little bit of discretion and caution in terms of this bill.

Mr. PEYSER. Mr. Speaker, in the 1 minute I have I cannot really cover what I wanted to, but I do want you to know that I came into this House this morning prepared to vote for this rule, and now that I have had the opportunity of hearing the arguments, I am now going to vote against the rule. What I have heard so far and what I have seen of the bill, which I have just been able to get hold of, reminds me of the old statement: "When in danger, when in doubt, run in circles, scream and shout."

It sounds to me like that is what we are doing here on the floor of the House on this issue, and I think we ought to now act intelligently. I do not care whether we are here until Christmas—I do not want to be here—but if we have got to be here in order to act intelligently on this issue, then we ought to take the time and act on it. But we ought to know what we are talking about and not rush in and vote for these nongermane amendments that are attached to this rule. We must work to find a reasonable solution to this energy crisis.

Mr. DENNIS. I should like to express my concurrence with what the gentleman has to say. We have an energy crisis but I do not think it is responsible to have this important and complicated legislation written by a conference committee; we ought to consider it, and we ought to have, and to take, reasonable time to consider it.

Mr. Speaker, somebody here said: Is there an energy crisis or isn't there? That is a good question, and the only answer we have is from the oil companies, and the Members can make sure that that is in their self-interest.

I have in my office a copy of the January and the February issues of the "Ohio Farmer," which is the largest circulated rural magazine in Ohio, and all of the power companies in Ohio were taking full-page ads asking people to convert to electric heat. This week they took full-page ads and said there is an energy crisis. Please, Congress, remove the ecology restrictions. Remove the pollution restrictions from us.

Then they have a statement in the paper saying: Go ahead in Ohio and turn on your Christmas lights. We generate from coal. There is no shortage here.

Who does know whether there is an energy crisis or not?

The basic raw materials for plastics are being shipped abroad to the extent of 45 percent of their production abroad, where only 18 percent has been sent heretofore. If there is a crisis, it is a crisis contrived for the profit, the surplus profit, the excess profit, of the big corporations. I intend to vote against the rule.

Mr. LATTI. Mr. Speaker, I have in my hands a UPI story out of Washington:

The Administration today proposed new fuel allocations regulations that would result in less gasoline and higher prices for the consumer.

The new mandatory program, supplementing incentive program announced last week, would cut back gasoline output by an estimated 15 percent and raise heating oil 8 or 9 cents a gallon and gasoline 6 or 7 cents a gallon.

This is rationing via the price route and I am opposed to it.

Mr. Speaker, I might say that at the proper time I am going to offer an amendment to the rationing section of this bill which would read as follows:

Provided, however, any plan formulated under this subsection (6) must be first submitted to and approved by the Congress before implementation.

Mr. STAGGERS. How can the gentleman offer an amendment—and we hope he does offer an amendment—if he votes the rule down?

Mr. LATTI. I might just vote for the rule if he would accept my amendment.

Mr. DEVINE. Mr. Speaker, the time is inadequate but let me say this. I cannot defend this rule, but I sat in the Rules Committee yesterday and listened to the alternatives. They had 6 or 7 or 8 or 9 of them that were defeated. This is the best thing we can come out with.

We cannot go home and tell our people we did not even want to talk about the fuel shortage. I think we ought to vote for the rule and take up the bill and see whether it is a dog's breakfast or not.

Watergate will not even be a political issue if we fail to come to grips with the energy shortage. If our people cannot get gasoline; cannot keep warm; cannot turn on their lights; cannot keep their jobs; you just better be in a position to say you at least tried to do something about it.

You may try to blame the President, or someone else, but he is not running for anything. Most of you are, and we will be required to answer the people.

Let us try to make the bill the best we can to move in the direction of reasonable solutions.

Mr. JONES of Oklahoma. Mr. Speaker, I rise in opposition to the rule. The question is not whether we have an energy shortage. We do. The question is whether this body will act as it is supposed to act, as a deliberate body. I have been trying to get a copy of the bill which is before us today since last Friday. It was not until late yesterday afternoon that we got the bill. I submit that very few Members have really read, digested, and have really understood the bill.

This bill charts a new and far-reaching course of additional administrative authority and a new course for the country on energy policy.

I have read the bill. I think the language is so loose in some cases that it amounts to verbal promiscuity, some parts of the language have the effect of trying to make Lady Chatterly look like Betsy Ross, which she is not.

I think this bill should be put over for 2 days until we can check with our constituents, represent their views and act in a deliberative fashion.

Mr. Moss. Mr. Speaker, I do not like this bill and I do not know of a single member of the Committee on Interstate and Foreign Commerce or of the Committee on Rules or any Member of this House who likes this bill.

I do not like the alternatives to this bill. I do not like the crisis that confronts us. I do not like the need to share scarcity.

But I am faced with the inevitable and irrefutable fact that I must accept responsibility and only through the adoption of this rule and only through ordering the previous question and only through this further debate can we meet that responsibility which we so eagerly sought and which is now imposed upon us.

We can go back to hearings. Hearing what? Indecision? Hearing facts in controversy? Hearing that there is no clear policy? Hearing that there are innumerable problems? Hearing that the industry cannot agree? Hearing that the Government cannot agree?

And now are we in Congress to say that we find ourselves incapable of acting in response to what clearly is a crisis, even though as the gentleman from Ohio says the advertising has been contradictory? Not too many months ago the industry was urging a greater use of energy and today it is entreating people and urging them to discontinue any expanded uses. But remember that many of those ads were contracted for many months ago.

But also remember that there is a responsible course, and I believe that I am compromising my views and my position to as great an extent as any Member of this body. I tried in committee to fight for more time, but I can say to every Member here that without exception every member of that committee attended those sessions morning, afternoon, and late into the night in an effort to deal with this problem.

We bring the Members our best effort. Admittedly it is not a perfect one, but let us proceed now to adopt the rule and debate the bill on its merits.

The SPEAKER. All time has expired.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the yeas appeared to have it.

RECORDED VOTE

Mr. LONG of Louisiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 272, yeas 129, not voting 31, as follows:

[Roll No. 656]

AYES—272

Addabbo	Dellenback	Hinshaw
Alexander	Dent	Hogan
Anderson, Ill.	Devine	Hollifield
Andrews, N.C.	Diggs	Horton
Andrews, N. Dak.	Dingell	Hosmer
Annunzio	Donohue	Hudnut
Arends	Dorn	Hutchinson
Ashley	Downing	Ichord
Badillo	Drinan	Jarman
Bafalis	Duncan	Johnson, Colo.
Barrett	du Pont	Johnson, Pa.
Bell	Eckhardt	Jones, Ala.
Bennett	Edwards, Ala.	Jones, N.C.
Bergland	Edwards, Calif.	Jones, Tenn.
Bevill	Eilberg	Karth
Biester	Esch	Kazen
Blatnik	Eshleman	Kuykendall
Boggs	Evans, Colo.	Kyros
Bolling	Evins, Tenn.	Leggett
Brademas	Fascell	Lehman
Bray	Findley	Litton
Breaux	Fish	Long, La.
Brinkley	Flood	Long, Md.
Brooks	Ford,	Lujan
Broomfield	William D.	McClory
Brotzman	Forsythe	McCloskey
Brown, Calif.	Fountain	McCormack
Brown, Mich.	Frelinghuysen	McDade
Brown, Ohio	Frenzel	McFall
Broyhill, N.C.	Froehlich	McKay
Buchanan	Fulton	Macdonald
Burgener	Fuqua	Madigan
Burke, Mass.	Gaydos	Mahon
Burlison, Mo.	Gettys	Mailliard
Burton	Gialmo	Mann
Byron	Gilman	Maraziti
Camp	Ginn	Martin, Nebr.
Carey, N.Y.	Gonzalez	Martin, N.C.
Carney, Ohio	Goodling	Mathias, Calif.
Carter	Grasso	Matsunaga
Cederberg	Gray	Metcalfe
Chamberlain	Green, Oreg.	Michel
Clancy	Griffiths	Miller
Clark	Grover	Mills, Ark.
Clausen,	Gude	Minish
Don. H.	Guyer	Mink
Clawson, Del.	Haley	Minshall, Ohio
Cleveland	Hamilton	Mitchell, N.Y.
Cochran	Hammer-	Mizell
Cohen	schmidt	Moakley
Collins, Ill.	Hanley	Mollohan
Collins, Tex.	Hanna	Moorhead,
Conte	Hansen, Idaho	Calif.
Cotter	Hansen, Wash.	Moorhead, Pa.
Cronin	Harsha	Morgan
Daniels,	Harvey	Mosher
Dominick V.	Hastings	Moss
Davis, S.C.	Heckler, Mass.	Murphy, N.Y.
Davis, Wis.	Heinz	Myers
de la Garza	Helstoski	Natcher
Delaney	Henderson	Nedzi
	Hillis	Nelsen

Nichols
Nix
O'Brien
O'Hara
O'Neill
Owens
Passman
Patten
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Pritchard
Quile
Quillen
Railsback
Randall
Rees
Regula
Riegle
Rinaldo
Roberts
Rogers
Roncalio, Wyo.
Roncalio, N.Y.
Rooney, Pa.
Rose

Roush
Roy
Sandman
Sarasin
Scherle
Schroeder
Sebelius
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
J. William
Steele
Stephens
Stanton
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.

Thone
Thornton
Van Deerlin
Veysey
Vigorito
Waldie
Wampler
Ware
White
Whitehurst
Wiggins
Williams
Wilson, Bob
Wilson,
Charles H.,
Calif.
Winn
Wolff
Wright
Wylder
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOES—129

Abzug
Adams
Anderson, Calif.
Archer
Armstrong
Aspin
Baker
Bauman
Beard
Biaggi
Bingham
Blackburn
Bowen
Breckinridge
Broyhill, Va.
Burke, Fla.
Burleson, Tex.
Butler
Casey, Tex.
Chappell
Chisholm
Conable
Conlan
Conyers
Corman
Coughlin
Crane
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Danielson

Davis, Ga.
Denholm
Dennis
Derwinski
Dickinson
Dulski
Flowers
Flynt
Frey
Gibbons
Goldwater
Green, Pa.
Gross
Gunter
Hanrahan
Hawkins
Hays
Hébert
Hechler, W. Va.
Hicks
Holt
Holtzman
Howard
Huber
Hungate
Jones, Okla.
Jordan
Kastenmeier
Keating
Kemp
Ketchum

King
Koch
Landgrebe
Landrum
Latfa
Lent
Lott
McCollister
McEwen
McKinney
McSpadden
Mallary
Mathis, Ga.
Mayne
Mazzoli
Meads
Melcher
Mezvinsky
Milford
Montgomery
Obey
Parris
Peyser
Powell, Ohio
Price, Tex.
Rangel
Rarick
Reid
Reuss
Robinson, Va.
Robison, N.Y.

Rodino	Schneebeli	Towell, Nev.
Roe	Seiberling	Treen
Rosenthal	Shipley	Udall
Rousselot	Snyder	Ullman
Roybal	Stanton, James V.	Vander Jagt
Runnels	Stark	Vanik
Ruppe	Steed	Waggonner
Ruth	Steelman	Whalen
Ryan	Steiger, Ariz.	Whitten
St Germain	Steiger, Wis.	Widnall
Sarbanes	Symms	Wilson, Charles, Tex.
Satterfield	Tiernan	Young, Ga.

NOT VOTING—31

Abdnor	Fraser	Rooney, N.Y.
Ashbrook	Gubser	Rostenkowski
Boland	Harrington	Stokes
Brasco	Hunt	Symington
Burke, Calif.	Johnson, Calif.	Taylor, Mo.
Clay	Kluczynski	Thompson, N.J.
Collier	Madden	Walsh
Dellums	Mitchell, Md.	Wyatt
Erlenborn	Murphy, Ill.	Yates
Fisher	Patman	
Foley	Rhodes	

So the resolution was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson of New Jersey for, with Mr. Dellums against.

Mr. Rooney of New York for, with Mr. Harrington against.

Mr. Rostenkowski for, with Mr. Mitchell of Maryland against.

Mr. Brasco for, with Mr. Stokes against.

Mr. Kluczynski for, with Mr. Clay against.

Until further notice:

Mr. Fisher with Mr. Madden.

Mr. Yates with Mr. Gubser.

Mr. Murphy of Illinois with Mr. Ashbrook.

Mr. Boland with Mr. Abdnor.

Mrs. Burke of California with Mr. Erlenborn.

Mr. Fraser with Mr. Collier.

Mr. Foley with Mr. Taylor of Missouri.

Mr. Symington with Mr. Patman.

Mr. Johnson of California with Mr. Walsh.

Mr. Hunt with Mr. Wyatt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11450 with Mr. Bolling in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. Staggers) will be recognized for 1½ hours and the gentleman from North Carolina (Mr. Broyhill) will be recognized for 1½ hours.

Mr. STAGGERS. Mr. Chairman and Members of the House, I am not going to take very long at the present time, and I hope to come back a little bit later, and will certainly be glad to answer questions.

I know that we will have several speakers who will try to enlighten the House on what is in the bill.

Let me begin by giving a short background on this legislation.

On October 18 the Senator from Washington, Senator Jackson, and I introduced a bill on the same day in both the Senate and the House which proposed to give the President certain emergency powers to deal with the crisis situation which confronts this Nation. The House bill was H.R. 11031. The Senate subsequently had hearings on their bill, and passed it on November 20.

I might add this: that the President called a group of Congressmen from both sides of the aisle to the White House concerning energy, those Members who had it under their jurisdiction, and talked about the importance of the energy crisis at the present time, and that it was a "must" that we do something about it immediately.

At that time, he said that he needed the daylight saving time bill which the House has passed, and which has now come out of conference, and is ready for final passage.

On November 8 the President sent a message to the House on the importance of the energy crisis saying that it was very necessary that this Congress pass an energy bill before we adjourned to go home for the holidays.

The Committee on Interstate and Foreign Commerce commenced hearings on the bill H.R. 11031, and held hearings for 6 days. We had those hearings through groups of panels. For instance, on the first day we had eight representing the administration, headed by the then head of the Energy Policy Office, Mr. Love. And on succeeding days we had other panels who appeared before the committee. After those 6 days of hearings we took 7 days to mark up a bill.

And if ever there has been a bill considered extensively, and I say extensively, again, by the Committee on Interstate and Foreign Commerce, or I would say any committee of the House, this bill is it. And it was considered by what I believe are 42 of the greatest Members in this House—and here I have not included myself.

Gentlemen, I know I do not have to tell you how truly serious this shortage situation is. I believe that this legislation as a supplement to the Emergency Petroleum Allocation Act will give to the executive department important powers to cope with the situation. I respectfully urge the adoption of this legislation in the form in which it has been amended by the Committee on Interstate and Foreign Commerce.

Mr. Chairman, our committee has worked a great many hours on this legislation. In committee over 125 amendments were considered and 75 agreed to. Consistent with the emergency situation which confronts this Nation, the committee met almost continually over the last week in

morning, afternoon, and evening sessions. I believe that we have reported a bill which reflects in the committee's amendments the concerns of the American people. Undoubtedly it can be improved upon, but I hope that House consideration of this measure will not be extended in a manner which prevents our getting legislation through the Congress before the Christmas recess.

There is much that remains to be done to deal with the energy crisis. I know that a number of my colleagues have devised their own solutions. Many of these have great merit. However, I would hope that we will not attempt to solve the full problem in this legislation, but that we will confine it to consideration of those measures which must be enacted in the short term to deal with the impending shortfalls of this next year.

Mr. Chairman, I, for one, would like to commend the gentleman from West Virginia and his committee for what they have done. I do not think any Member of this House, regardless of how he feels about this bill, meant anything derogatory toward the gentleman's committee because it is a fact, as the gentleman has just stated, that they have worked very hard.

The question that I have at this particular time is that this bill deals with the energy crisis; am I correct?

Mr. STAGGERS. That is right.

Mr. KAZEN. The words "energy crisis" mean to me an energy shortage. Is this correct?

Mr. STAGGERS. That is correct.

Mr. KAZEN. Has the gentleman's committee received an inventory of energy in this country? What is it that we are talking about?

Mr. STAGGERS. We have tried and tried to get from the administration these very facts. We have not been able to do so. The legislative body does not have the wherewithal that the executive department has to get the facts. That is their job. We have not been able to totally get those facts. We have had to work on the information that we have been able to get together as to what the shortage situation is. We do know that right at the present time there are many hardships being created that people are having to put up with across the land. We want to alleviate those hardships.

Mr. KAZEN. This is correct, but I think before we tackle any problem like this, we have got to get the basic facts. Just what is it that we are going to allocate? Just what is it that needs to be rushed? Just what is our production, in other words, our inventory? Everything that we do has to go back to the basic idea of, we have only so much to work with. That, I think, is the biggest failure of this administration and in their entire policy where they did not start with a No. 1 priority, to get an inventory of our resources, because everything else that we do depends upon what that inventory would show.

Mr. STAGGERS. I am in agreement with the gentleman from Texas. I might say to the gentleman that I appreciate his remarks, but those are things in the past. We are dealing with the problem that is now upon us, and it certainly is up to each Member of Congress to do the very best that he can to take care of the situation as he sees it. There are hardships being created and brought to bear on the American people, and that is the reason for this bill being here today.

I hope that during our debate and the debate on all of the amendments that we can do it in a way that will not create too much fury, that we can do it in a way that will be intelligent, and try to accomplish something.

There have been accusations hurled around this morning that I do not think belong in a deliberative legislative body. Let us get together as reasonable men and try to do the very best we can on the situation as it exists today. That is my intent.

I do not claim the bill is perfect. I do not think there is any man on the committee who will claim that. They know it is not. They know there are many things, perhaps, that should not be in there, and others that should be, but we have worked hard and have done the very best that we could, and this is the result of that work that we are bringing to the Members today.

We think it is at least the basis upon which we can offer amendments today and try to perfect it, as Representatives of all of the people. That is the way we do our legislative business in Congress.

I am not dealing with the content of those amendments at the present time. We will do that when they come up. But I would just like to say that the committee did work hard on this.

I would like just briefly to go through and tell the House what the bill does.

In title I, the bill is supposed to give proposals for mandatory conservation plans which will minimize the impact on employment.

It is supposed to give equitable treatment to all segments of the economy while maintaining vital services to the land. It is to provide for end-use allocation, which includes adjustments in refining operations. It means that if one item is short, the refineries can be directed to correct that and to make it more equitable between heating oil or other petroleum products or whatever the problem might be. **[Sec. 103(a).]**

The President may require oil production at its maximum efficient rate and may overrule State determinations as to what that rate should be. **[Sec. 103(a).]**

Federal lands must try for secondary and tertiary recovery. **[Sec. 103(a).]**

The bill creates a Federal Energy Administration. The Administrator is appointed with the consent of the Senate and removed only for cause. **[Sec. 104.]**

The term ends on May 15, 1975. This is a temporary measure unless renewed, and we hope that it will not have to be renewed. We hope the committee and America will know exactly what is going on in the country and that it will not have to be renewed. We hope things will be corrected so as to make distribution of the fuels more equitable.

The Administrator is to submit energy conservation plans within 30 days. They are to include proposals for transportation controls, car-pooling, use of recyclable materials, and so on. **[Sec. 105(a).]**

It provides that vital services should be maintained and that the burden on all segments of the economy should be equitable, which it is not today. If there are going to be any undue burdens, as there have been in the past, they must be corrected. **[Sec. 105 (b) and (c).]**

The regulatory bodies will do what they can and they will suggest what authority is needed. **[Sec. 107.]**

The ICC may also adjust truck gateway restrictions. I will not go into that in detail but it means that right now some trucks might have to start in New York and go to Atlanta instead of going to San Francisco, instead of going by a direct route which would save maybe 1,000 or 2,000 miles. **[Sec. 107(b).]**

Enforcement mechanisms include Federal criminal and civil penalties, injunctive and private actions. Included among the prohibited acts is denying fill-ups to trucks on bona fide cargo runs. **[Sec. 111.]**

States will receive grants to help carry out delegative authority. **[Sec. 112.]** Dealers will have a day in court on franchise or marketing contract cancellations. **[Sec. 113.]** I know that practically every Member of this House has had some complaints from dealers who have had to cancel their contracts and go out of business. One businessman was in my office recently and said he had a franchise for 45 gasoline stations; he had to close all but 12 of those because his contracts had been canceled. We hope this will not be done in the future and it will not be done under this bill.

Retail and service establishments may make voluntary agreements to promote conservation. **[Sec. 114.]** Carpools are to be encouraged by incentives. **[Sec. 116.]** In the bill \$25 million is authorized to foster plans. Government should use smaller cars. The use of limousines is limited in the Government to Cabinet officers. There has been an exception made there for the FBI and for the State Department, when people may transfer materials sometimes in bulletproof limousines. There has been an exception made for them.

Mr. LANDRUM. Is it accurate to say that this bill could be described as a short-range solution, providing a short-range solution to the crisis that confronts us?

Mr. STAGGERS. That is right.

Mr. LANDRUM. There are no provisions in this bill designed to go to the long-range problem?

Mr. STAGGERS. There are some, but yes, this bill is primarily directed at the short-term problem.

Mr. LANDRUM. Is it the opinion of the gentleman today, after his long and careful study of this problem, that we are going to have to provide some means of offering incentive to the capital market to come in and discover new sources of fuel supplies, new natural resources for fuel?

Mr. STAGGERS. Well, I know what the gentleman is talking about, the use of geothermal and other energy sources.

Mr. LANDRUM. Does the gentleman have any idea about how these incentives could be set up?

Mr. STAGGERS. We have talked about them in the committee. We did talk about what should be done; not only that, I fully agree that there are other means of energy that we have not tapped at all.

I think the gentleman might be talking about the incentives for coal and gas production.

Mr. LANDRUM. Is it accurate to say that in order to provide the necessary incentives for research and discovery of these needed resources, that we must alter our tax laws relating to these rules?

Mr. STAGGERS. I would say to the gentleman that belongs to another committee and it would be for their consideration.

Mr. LANDRUM. I am not talking about the gentleman's committee. I would like to know the gentleman's idea.

Mr. STAGGERS. I might say, the bill calls for study on developments of all resources and asks for recommendations for providing incentives to increase production. They shall report back to the Congress for appropriate consideration.

Mr. LANDRUM. I note in the bill a provision to prohibit windfall profits or to require the return of so-called windfall profits. Now, what is a windfall profit, Mr. Chairman?

Mr. STAGGERS. The bill sets up a formula in **section 117** for determining windfall profits.

Mr. LANDRUM. Will that be determined by the Renegotiation Board, for example?

Mr. STAGGERS. Yes; that is what is in the bill now. I understand there are some amendments which may be offered to take the function out of the Renegotiation Board and give it to the Administrator. That is where I believe it should be, under the Administrator of the Federal Energy Administration.

Mr. LANDRUM. Then there might be some suspicion, at least, that this provision should not be in here?

Mr. STAGGERS. Well, no, I think it should be in here.

Mr. LANDRUM. That it is without jurisdiction?

Mr. STAGGERS. I think it should be in here, but it should be transferred to the Federal Energy Administration to make it completely consistent with what we have done.

Mr. LANDRUM. My final question, is it the opinion of the distinguished chairman or not that this is a short-range solution only; it does not go to the long-range problem confronting us?

Mr. STAGGERS. Except the studies we are having made.

Mr. LANDRUM. Except the studies, that is right.

Mr. STAGGERS. We want them to come up with studies that will tell us and this Nation where we are going. We want to get away from the petroleum use as other nations have done and as Hitler did at the end of World War II. That is 40 years ago. He used coal to run all his machinery. Here we are sitting and not doing it. There is something wrong with Americans if they are not doing it.

Mr. LANDRUM. I might suggest that it is not quite 40 years ago.

Mr. STAGGERS. It was in 1945, almost 30 years ago.

Mr. GROSS. We have before us H.R. 11450, consisting of 95 pages, which was made available yesterday afternoon, and we have H.R. 11882, which is 67 pages and was made available to us only an hour or so ago.

To which of these bills do we center our attention during general debate?

Mr. STAGGERS. Mr. Chairman, I would like to say this: We are now in general debate—I am addressing myself to H.R. 11450 as amended, but at the start of the reading of the bill for amendments I am going to ask that H.R. 11882 be considered as an amendment in the nature of a substitute for this bill. It is identical as to every word in the bill as it was amended by our committee.

Mr. GROSS. Maybe, but the page numbers are much different.

Mr. STAGGERS. That is correct.

Mr. GROSS. Mr. Chairman, I would hope that proper efforts would be made to identify page numbers by those who speak on the bill.

One other question: Why the exemption for Cabinet members in the use of limousines and if—if they have children and are using their limousines to transport them to private schools, why should they be permitted to do so?

Mr. STAGGERS. They should not, unless it is for security reasons.

Mr. GROSS. For security reasons. Is that the reason the committee gives for exempting limousines for Cabinet members?

Mr. STAGGERS. That is not exactly true, but that is one of them, I would say.

Mr. GROSS. How very nice.

Mr. BROYHILL of North Carolina. Mr. Chairman, I understand from one of the provisions of the resolution which permitted debate on this bill, immediately after reading the enacting clause, the text of the bill H.R. 11882 will be offered as a substitute?

Mr. STAGGERS. That is correct.

Mr. BROYHILL of North Carolina. And that the text of that bill is identical to the other, and the amendments will then be offered to the substitute?

Mr. STAGGERS. That is correct.

Mr. BROYHILL of North Carolina. We have not had this procedure where the rules of the House require offering the committee amendments again on the floor of the House?

Mr. STAGGERS. That is correct.

Mr. BROYHILL of North Carolina. And had there been amendments offered to committee amendments, it would have been a chaotic parliamentary situation and we would be here until Christmas?

Mr. STAGGERS. That is correct.

Mr. VANIK. Mr. Chairman, I appreciate the work of this committee in its effort to solve a very difficult problem. I would like to ask if there is any provision in the legislation, since we are going to move on the conversion of a great many energy plants which now use oil to coal, will there be any effort or is there any provision in this bill to mandate the use of our coal transportation within our country to supply coal to our domestic energy sources rather than the export business, which is demanding a substantial portion of our transportation system?

Mr. STAGGERS. Mr. Chairman, we have covered the exporting of coal and have prohibited it except where consistent with the national interests.

Mr. VANIK. But the language does not direct itself to the transportation problem?

Mr. STAGGERS. It is not in the bill, but all the things that are needed to get the energy are.

Mr. VANIK. Mr. Chairman, just one other question I have: I have a feeling that there are some resources in this country, some oil and gas discoveries, that are made and concealed, capped and closed. At least with respect to Federal lands, is it possible and does this legislation direct itself toward providing some sort of inspection by someone in the Federal Government to certify a well on public lands as nonproductive or economically nonfeasible before it is capped or closed? Is there any provision for that?

Mr. STAGGERS. No, and I must say to the gentleman from Ohio that we are talking about the jurisdiction of another committee. The chairman of that committee did write to our committee and to the ranking minority member saying that the things under consideration in the bill would be all right with him, so we only mention Federal lands in one or two places. We did have in the original bill about opening naval reserves to production, but we took it out because that is under the jurisdiction of the Committee on Armed Services.

Mr. VANIK. Mr. Chairman, I want to thank the gentleman for his response.

Mr. FLYNT. Mr. Chairman, reference has been made by the distinguished gentleman from West Virginia to H.R. 11882.

Mr. STAGGERS. Yes, sir.

Mr. FLYNT. I see on the desk in front of the gentleman that he has a copy of it.

Mr. STAGGERS. Yes, sir.

Mr. FLYNT. Yes. And several other Members of the House have endeavored to obtain copies of this from the normal places where we ordinarily get copies, and we have been told that they are not available. First of all, I would like to inquire if the Committee on Interstate and Foreign Commerce has adequate copies of this bill so that those of us who propose to offer amendments may do so.

Mr. STAGGERS. Mr. Chairman, I am sure that they will be available. I am sure the additional copies will be available when the time comes. They were supposed to be here at 9 o'clock, and then because of problems at GPO, it was delayed.

Mr. FLYNT. Mr. Chairman, if the gentleman will yield further to me, the gentleman has said that when the time comes, they will be available.

Many of us feel that the time has come when they should be available, and, in fact, that was one of the objections to the rule. The rule was not available to a majority of the Members of the House.

Mr. STAGGERS. Mr. Chairman, let me say to the gentleman that the provisions of H.R. 11450 are identical to those of the other bill.

Mr. FLYNT. They are identical in every respect?

Mr. STAGGERS. The gentleman is correct.

Mr. FLYNT. Mr. Chairman, I thank the gentleman for his response.

Mr. STAGGERS. Mr. Chairman, I will continue with my presentation.

Windfall profits are to be controlled by having the Renegotiations Board determine that money is to be paid back when they have excessive profits and are really gouging the public. [Sec. 117.]

I think that most of the citizens of this Nation would be 1,000 percent for this, although some Members of Congress probably would not be for it. I found that the people I talked to back home say that this is one of the things that is needed above everything else.

So when the time comes to vote for it, if there is a vote for or against it, I am going to ask for a record vote, because I would like to know who is against windfall profits and who is in favor of windfall profits for those who have already, as I said, made the greatest profits in history last year.

The President may approve importation of liquid natural gas on an individual shipment basis. [Sec. 118.]

New electric power sources will be developed or shall be developed.
[Sec. 119.]

Voluntary agreements within the petroleum industry will be subject to close Government supervision. **[Sec. 120.]**

Mr. Chairman, I have tried to take these points by section to give the committee a little bit of an idea of the broad scope of the bill and what it entails.

Mr. BROYHILL of North Carolina. Mr. Chairman, today the House of Representatives has the opportunity to take some long overdue steps toward solving our Nation's energy crisis. By itself, H.R. 11450 will not totally solve our energy problems—that will take time. But through its conservation and resource proposals and its establishment of the much needed Federal Energy Administration, it offers a needed structure for a successful assault on our energy problems.

I think it is important that we realize that the energy crisis is here—and it is real. For years, some of us have discussed the oncoming energy crunch. A sound policy of planning and conserving our limited resources, and of striking a proper balance between environment and energy needs has been a national need for years.

It is also important to realize that the energy crunch is not just due to the Mideast oil embargo. We would have, as I have noted all year, a rough winter ahead in any case. But the oil embargo has intensified our difficulties.

America has traditionally had a plentiful supply of inexpensive energy. For 200 years, our cheap and plentiful energy resources have fueled our amazing growth from a small farming nation to the world's most technologically advanced country. These resources and our use of them have made possible the best standard of living in the world.

But today, the Madison Avenue slogan, "A nation that runs on oil cannot afford to run short," has achieved real significance.

America is confronted with a severe energy shortage both right now and in the near future. As a result, we have all witnessed a series of incredibly fast moving events. In 6 months, America has gone from a free market energy system to voluntary allocation program to today's mandatory programs. Speed limits have dropped by 20 to 25 miles per hour. Gasoline stations have shut down. We keep our homes cooler in the winter and warmer in the summer. And the Sunday trip to visit relatives is no longer a sure thing. We do all of this to conserve the fuel necessary to keeping our children in school, our homes warm and our industries open.

As we all know, America depends on its energy resources. Any severe shortage of energy would sharply curtail life as we have known it in the United States. People are now asking—"Why is America facing this shortage?" The central problem is, of course, the energy supply and demand situation.

As we are finding out, the demand for energy resources has simply outpaced the growth in supply.

From 1955 to 1970, demands for energy increased some 40 percent. By 1985, requirements for energy resources will have increased another 60-70 percent over 1970. While this incredible growth rate has been worldwide, it has been particularly heavy in the United States. And America is particularly sensitive to worldwide shifts in energy

supplies. With only 6 percent of the world population, we consume over one-third of the world's energy resources.

At the same time that our energy requirements have been greatly increased, America has had significant shifts in the use of specific energy sources. As an example, for years, heavy industry and the electrical companies have used coal as their primary source of energy. Both efficiency and environmental considerations have caused industry to turn more and more to the use of oil. As a result, it is predicted that by 1985, unless we change this trend, 46 percent of all energy resources used to run industry will be oil products.

This shift in the so-called fossil fuel market—from coal to oil and gas—has placed the U.S. economy in a very unfortunate position. America's increased reliance on oil has forced, it because of declining oil reserves, to depend on an increasingly large amount of imported crude oil. Yet the United States has over one-half of the world's known coal resources—nearly 300 years worth of supplies. We need to make use of this great and bountiful resource.

Some have advanced the notion that there is a simple answer to our energy and oil decline. Their answer is to simply increase our reliance on imported oil. We have found, with the oil embargo, that this is no answer. It is just an opening for national suicide. Even if we could rely on foreign oil it would be disastrous financially.

By 1980, if present trends had continued, imported crude oil could contribute over \$20 billion a year to our balance-of-payments deficit. Quite frankly, regardless of the shape of the American economy in 1980, that sort of reckless dollar drain is simply prohibitive.

This problem of energy shortages is not just an American phenomenon. The energy crunch has hit the entire industrialized world. Europe, for example, is almost totally reliant on imported oil. Stringent conservation measures including a ban on Sunday driving and reduced speed limits are now in effect in nearly every country on the continent. Japan forces a severe curtailment of its industrial activity unless suppliers of oil and gas loosen up considerably. Even Russia, which has massive energy reserves, has begun to take energy conservation steps. Indeed, even with our energy problems—and I do not minimize them—we are in much better shape than other industrialized nations.

And with a program of national self-sufficiency, it will improve.

The energy picture is not a long-run bleak situation. An exciting future with new technologies is also before this country.

By the 1980's, expanded research and development in the areas of nuclear energy, the fast breeder reactor, shale oil, and coal degasification could open up a new vista of plentiful untapped energy sources.

But to get this effort off the ground and to get us through the immediate problem requires the sound guidance of a well-thought-out national energy policy. That is precisely what we have been lacking for a number of years in the Federal Government.

Take a look at the present arrangement of energy policymaking right now.

There are some 64 different Federal agencies that administer programs which have an impact on our energy system. Government—Federal, State, and local—uses 60 percent of all the gasoline consumed in

this country. Yet there is no coordinated effort to assure a consistent and far-reaching policy thrust to energy program administration.

We should have learned that a fragmented management system such as this intensifies rather than solves problems. And that is just what we have experienced. We must get started now on the development of a national energy policy that will secure for the United States the energy supply needed to meet our increasing domestic fuel requirements.

There are, in addition, some other areas that Congress can take action on to meet the energy challenge. America needs to embark on a positive program of rapidly developing our own energy resources.

Initial steps have been taken to begin exploration and drilling of the Outer Continental Shelf. About 40 percent of our total undiscovered oil resources are said to be located here. Indeed, there is more oil here than is located in the massive North Sea reserves.

In Alaska, now that Congress has passed the Alaskan pipeline legislation, energy experts predict that the north oil fields will yield 2 billion barrels a day of crude oil.

I would also attach a great deal of importance to a thorough review of our federally funded research and development projects. Particularly in the nuclear energy field, these projects seem to be progressing on schedule with ample but not excessive funding levels.

However, I think that additional research and development funds for coal research could reap us important dividends. Substantial breakthroughs in developing an environmentally safe coal technology would allow America to make use of its impressive coal resources and slow down our increasingly expensive reliance on oil products.

I am supporting H.R. 11450, the National Emergency Energy Act. It is not a panacea. It will not cure all of our ills. We will still have much in the energy field to accomplish over the next few years. But this legislation is the needed first step.

However, I think that we can also make some needed improvements in this legislation today. **Section 105** of the final committee bill effectively emasculated certain needed powers to deal with energy conservation.

Originally, the bill allowed the President 30 days after enactment to propose a series of energy conservation plans. Congress then had 15 days in which to decide which plans were off target and which were proper and acceptable. This is the kind of quick action we need. The procedures set forth in the bill at that time were designed to prevent delay and get action.

The amended committee bill, however, removed the congressional veto and substituted a legislative response instead. As the bill now stands Congress must act affirmatively before any plan can be implemented. The executive department is severely limited in its efforts to deal with the fuel crisis. And inaction will hurtle us unnecessarily toward rationing.

There will also be other amendments offered today to improve H.R. 11450. I hope that we will weigh each one of its own merit and with judicious thought. And I trust that we will leave here today with an energy bill that gives our people back home the sort of relief and programs necessary to see them through the winter.

Mr. McCOLLISTER. Mr. Chairman, one of the sections of the bill provides that stationary powerplants may change their use of their primary fuel from gas and oil to coal under certain terms and conditions. In that process, however, they must continue to do all that they can to comply with the provisions of the Clean Air Act, and with that generally I have no objection. **[Sec. 106.]**

There is, however, a group of powerplants that border on being obsolete where such compliance, such development of plans for complying with the Clean Air Act, would be an uneconomic activity, where the plant may have a remaining useful life of only 6 or 7 years, making it economically unfeasible for that plant to install the scrubbers in the smokestacks and other equipment to make it possible for them to comply with the provisions of the Clean Air Act.

In my own district—and I suspect that other Members have similar situations—a 110-megawatt plant now burning coal would be required to spend between \$13 and \$17 million to comply with the provisions of the Clean Air Act, and that plant, due to become obsolete and replaced by 1980, would find the public power district spending that kind of money for such a brief period of time. Thus, I shall at the appropriate time propose an amendment, which under certain limitations—into which I will go more at that time—would exempt those plants from complying with the provisions of the Clean Air Act for that period of time. It would make it possible for that plant and others like it to continue to produce power for the benefit of the residents of my district and my State without being required to shut down, the only other alternative being available to it now under the provisions of the Clean Air Act.

As I say, I will introduce that amendment at the appropriate time, and I hope that the chairman of the committee, the gentleman from West Virginia (Mr. Staggers) and others will see the good sense of the amendment and would agree to its acceptance.

Mr. MURPHY of New York. Under the provisions adopted in the committee, we went to the year 1979 to accomplish the intent of the gentleman's stated purpose. This would, of course, not change the ambient air quality. It was not the intent of the committee to change the ambient air quality, but it was to permit the intermittent or alternate controls for the control of emissions from plants just such as those that the gentleman has referred to, and that language is in the legislation now.

Mr. McCOLLISTER. I think in that case, though—and this is **section 106**; does not the gentleman agree?

Mr. MURPHY of New York. Yes.

Mr. McCOLLISTER. On page 13 of the bill it says that such plants shall make such use of product technology as may be necessary to enable such plant to come into compliance with the fuel or emission limitation, and so forth. **[Sec. 106.]**

The development of such a plan and the installation of such equipment to come into compliance would take an economically unfeasible amount of money to do it, and the alternative would be that the plant would simply shut down.

Mr. MURPHY of New York. The gentleman's language would have 1980 as the cutoff time?

Mr. McCOLLISTER. Yes.

Mr. MACDONALD. Mr. Chairman, I rise in support of this bill. It is indeed unfortunate that we of the Congress are faced with the necessity at this 11th hour to enact legislation to correct a situation which should have been foreseen many months ago by the administration and which certainly was foreseen by many Members of this Congress. Last spring, as a concrete example, I introduced legislation which was designed to correct some of the injustices that have been caused by the lack of coherent administration policy in the energy field. Last week that legislation became public law known as the Emergency Petroleum Allocation Act. Its chief purpose was to protect the suppliers of fuel and gasoline to consumers and it is accomplishing that purpose today.

But that particular bill does not cover many interrelated areas of energy supply and consumption that now have reached crisis proportion. The legislation we are considering today goes much further than that bill did. It gives unprecedented power to the President, which is one of the things that disturbs me and I am certain disturbs many people in the Congress. It gives this power through a Federal Energy Administration and its Administrator, Mr. William Simon, but even though that power is unprecedented in peacetime we have attempted very carefully by the provisions of the bill to put certain safeguards around it and in so doing we put in judicial review safeguards. The modifications of the environmental statutes that we put in are precisely drawn, in my judgment, or as precisely drawn as we possibly, can, and are limited both in scope and duration.

As my colleagues have already noted, this bill calls for drastic action by the Government, intensified efforts by industry itself, and the utmost cooperation of every citizen. It directs the Administrator of the new Federal energy agency to propose energy conservation plans.

In answer to questions that were raised earlier, I feel that is perhaps one of the most important factors of the bill, for while the Congress may have foreseen the problem before the administration, it acted from a rather piecemeal point of view and acted in a piecemeal way to cover what is a very broad problem indeed.

So the Federal energy agency proposal calls for conversion from scarce fuel to abundant fuel by major industrial users. It protects the normal and very complex marketing and distribution arrangements in the fuel industry as it protects the consumer against runaway pricing. Windfall profits are restricted severely. Authority is granted to the administration to restrict exports during this period of critical shortages and some environmental protection plans are temporarily suspended but appropriate safeguards, as I say, are provided for.

But perhaps most importantly the legislation calls on virtually every department and agency of the Federal Government concern with any aspect of energy to report on the impact of the current crisis on its special area of jurisdiction. When the studies mandated by this jurisdiction have been submitted to the FEA, there will at long last be correlated data on which energy reports can and must be made.

There will be finally collected in one place under one person the data that has so long been urgently needed and within 120 days, and in many cases less, after the enactment of the legislation, the FEA Administrator will have reliable facts and figures on our export and

import investment commitments on fuel economy, on siting energy production facilities, on employment, on environmental impact, and on many other vital areas; so I am greatly encouraged by the appointment of Mr. William Simon to that post of FEA Administrator. I devoutly wish he had been appointed 6 months ago when he appeared before our committee with a plan during July that could have been instituted and implemented at that time, instead of now in December.

I believe the confusion, the hesitation, and the indecision of the administration, both in policies and in personnel, has contributed significantly to the sorry state we find ourselves in today. Nonetheless, if this body approves the bill we are debating today, it will give to Mr. Simon the tools to do the mammoth job that has been given to do. I urge my colleagues to give him those tools.

I actually want to praise very much, indeed, our colleague on the Government Operations Committee who also worked night and day in forcing through quickly his appointment, in hearing many witnesses and taking testimony and in general doing a good job.

I indicated earlier to Mr. Landrum, of Georgia, that I thought he was left with rather a false impression at one point during the earlier debate, in which he inquired as to whether this program was to be a long- or short-range program. It is, of course, to be of short duration as of now; but it is, of course, also to be of long duration.

I hope that the record can be made clear that the need that he seemed to indicate that he felt of further depletion allowance, of further tax breaks for the oil industry, for the 11 major oil companies, to get them to come back here to the United States to invest their money instead of taking the free tax breaks that they now get in dealing in the Middle East, both by way of tax credit, by way of foreign depletion allowance, and by way of no income tax. Under the present law, if they pay taxes to a foreign country they do not have to pay those taxes to the United States. I think when and if this Congress, through the Committee on Ways and Means, does move in this field, it would be a much needed reform. Mr. Simon has indicated that he felt it might be a very good thing to do, indeed. I feel that they will so act. There is nothing wrong with businessmen trying to make more money, but greed must be curbed. If we can channel exploration back to the continental United States, our fuel shortage here at home will be cured and, hopefully, that will be soon.

I yield to the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE, Mr. Chairman, I want to take this opportunity to compliment my colleague for an excellent statement. I also agree with him in regard to the appointment of Bill Simon. I think this man has a handle on the issue and also is a very decisive man to do a very good job.

The question I wanted to ask in regard to taxes, this just came over the wire:

Bill Simon requests raising heating oil 8 or 9 cents a gallon and gasoline 6 or 7 cents a gallon, which I strongly oppose. Is there anything in this bill which gives him that authority to do that?

Mr. MACDONALD. He has flexibility. He asked before the Government Operations Committee to be given more flexibility. Whether it is in our bill, I would doubt very much inasmuch as we do not touch upon

the formation of his office, although the committee under the leadership of Mr. Holifield does do that.

Mr. BROWN of Ohio. Mr. Chairman, I think I can respond to that. Under the Federal Energy Administration, the parts of the Cost of Living Council which affect all prices will be moved into the Federal Energy Administration. However, that is not involved in detail in this legislation. That will be subsequent legislation coming from the Committee on Government Operations.

Mr. BROWN of Ohio. Mr. Chairman, I asked the gentleman to yield so that I could praise the leadership of the gentleman in the well (Mr. Macdonald) in the whole area concerned with energy. I must say to the gentleman in the well that during debate on the Alaskan pipeline legislation—and I would have to search back for the date of that, although it seems to me it was earlier in the summer—the gentleman proposed an amendment which later in the substantial form, although modified to some extent, became the mandatory fuel allocation legislation.

At that time I opposed the gentleman's amendment because I thought we were acting precipitously. Had we accepted it, we would now be better off, and I would say in retrospect that he was probably correct and I was probably wrong except with regard to some of the details of the amendment.

However, the gentleman has provided leadership in this area, and the mandatory fuel allocation act is a good example. This act is another good example. I think the gentleman's statement is needed for this act. I hope other Members have the same grasp and perception of the matter that the gentleman in the well has.

Mrs. GRIFFITHS. Mr. Chairman, I would like to say that **section 117**, on windfall profits probably is a sufficient delegation to permit the President to tax. That is, it gives him the power to set the price of petroleum and petroleum products—and to exclude windfall profits. In my opinion, since Secretary Shultz has been wanting a 40-cents-per-gallon gasoline tax, I think the President could, under this, legitimately set a price of 90 cents to \$1 and retain 40 cents as tax per gallon. That is excluding windfall profits. Either that section should be stricken completely or amended.

Mr. BOLAND. Mr. Chairman, I want to associate myself with the remarks of the distinguished gentleman from Massachusetts. I want to compliment him on the leadership he has given on this bill and many other bills affecting this energy crisis which is now perplexing our Nation.

I take pride in the fact that he recognized the problems we do have in New England and commend him for the leadership he has shown on the Alaskan pipeline bill and the mandatory fuel allocation bill, which the administration did not want, but which he led through Congress.

Mr. Chairman, I appreciate this opportunity to make my views known concerning truly crucial legislation.

I rise today in support of H.R. 11450, a bill to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met.

I wish to thank the distinguished chairman and the members of the Committee on Interstate and Foreign Commerce for acting as expeditiously as they have in considering this and other related energy emergency bills.

H.R. 11450 is a congressional directive to the President to take certain vital measures in dealing with our national energy shortages. The Senate has already passed a bill which utilizes this approach. S. 2589, the National Energy Emergency Act of 1973, was introduced by Senator Henry M. Jackson, of Washington, whose leadership in this field has been a light burning brightly amidst the gloom into which the current energy crisis has cast over our Nation.

Mr. Chairman, there is a plethora of facts and statistics concerning our energy problem available today to the readers of any newspaper or magazine. All we really need appreciate, however, is that this country produces domestically only 70 percent of the petroleum that it needs. Before the Arab-Israeli conflict and the subsequent Arab oil boycott, we imported fully one-third of all the oil we consumed. Conservative estimates of rising demand put our 1980 import total at something like one-half of our needs.

In light of the Arab nations' virtual cutoff of oil exports to this country, we are now facing something like a 17-percent shortfall in our energy needs. The President has proposed a series of so-called new initiatives for dealing with energy shortages. He has said that measures such as reducing speed limits and shutting off the pumps on Sundays will bring about a 10-percent reduction in energy consumption. Referring to the 7-percent margin which remains between supply and demand, he cryptically adds that "additional actions may be necessary." What this means he does not say. What he should be saying, however, is very clear.

He should be telling the American people exactly what measures are necessary for a realistic allocation of our energy resources now. He ought to outline publicly and without any allusions to pie-in-the-sky predictions, like energy self-sufficiency by 1980, exactly what our energy policy in the future is to be. He ought not to be proposing half measures like a 50-mile-per-hour national speed limit if sterner measures are needed as well. If it is one thing that all Americans are painfully aware of, it is that the energy crisis is now. The way to treat them is to tell them the worst and get on with energy conservation and allocation measures that will at least spread the burden of energy shortages equally.

But that is exactly what this President has not done. He has fallen back on his favorite political tactic, which can be epitomized as, "promise them anything, omit as much as you dare and tell them to trust you." Perhaps we will soon learn that there is some national security menace that requires a moratorium on plain speaking and dealing in government.

The facts are that—the Arab-Israeli war aside—energy shortages have been predicted ever since the fifties. Presidential commissions, the Federal Power Commission, and private foundations have to one degree or another warned us that our demand for energy was fast exceeding our capacity to supply it. In recent years, when the signs have been plainer and more persistent, we have witnessed a President

and his administration not only discount these signs, but insist right up until the Arab embargo that shortages would be minimal and hardly disruptive.

Our national energy policy has been a mishmash of half measures and pipedreams long before the most recent example of Presidential hopeful thinking. Persistent, unreasoned devotion to import oil quotas over the past 20 years had had the effect of making us dependent on foreign oil because our own reserves have been so heavily depleted during that period. A sudden reversal in policy by attempting to develop other domestic sources of fuels is laudable, but it comes 20 years too late. We should have realized that restricting foreign oil imports when they were cheap and plentifully available would have two significant effects—reducing our own reserves and thereby making us more and more dependent on foreign oil in the future. In the process, we might have foreseen, the major oil companies would grow richer and more powerful.

These huge conglomerates now control all aspects of the petroleum industry. Economists call it vertical integration. What it means is that these companies control the drilling, refining, shipping, retailing and pricing of petroleum products. The present monopolistic structure of the industry dates in no small measure back to the imposition of oil import quotas. Quotas helped drive the smaller independent oil retailers and refiners out of business. National security reasons were advanced for import quotas, yet the opposite purpose seems to have been served. Not only did the quotas hasten the demise of competition in the oil industry, it also helped put this country in its present untenable posture of dependence on foreign sources of oil because of diminished and dwindling reserves.

Oil shortages are not the only facet of the current energy crisis. Our known supplies of natural gas are no longer increasing, but decreasing. In other words, things will be getting worse before they get better: 1980—contrary to the President's public statements—will not see an end to oil and gas shortages. Our energy needs, conservation measures notwithstanding, will increase. Our currently estimated shortfall of energy supplies—17 percent—could grow to 20 percent if—as expected—Canadian oil supplies previously sent to this country are rerouted to other parts of Canada to supply areas that have thus far used foreign oil. As matters now stand, we have inadequate storage facilities on hand to accommodate a sufficient emergency reserve, even if we had one. New York City, it is my understanding, has existing storage facilities to generate only 4 to 5 days of heat and power.

U.S. refinery capacity is also inadequate to develop even the limited oil and other energy fuels that we can bring into action immediately. The major oil companies have not enlarged our domestic refining capacity in any significant fashion for years. Their reasons were not so much concerned with environmental restrictions as they were with economic ones, it being cheaper to build refineries in Europe and the Middle East than here at home. Decisions such as these—along with import quotas and the depletion allowance—helped to make the last several years as profitable as any these companies have ever enjoyed.

I am not one to blame the oil companies for all our present woes. Certainly they were insensitive to factors other than their balance

sheets. Their institutional advertising certainly helped to set the tone for the runaway energy consumption—or should I call it runaway waste—of petroleum products that has distinguished the postwar years. By no stretch of the imagination were strategic and long-term national energy problems part of their corporate policy. All of that is not their failing, either. National policy is supposed to be articulated by the administration.

Indeed, we cannot place the principal blame for the state of affairs exclusively on any one institution or group. However, we certainly had a right to expect more consistent and positive leadership from the President than we have received since 1968. What we have seen as a lackluster, often contradictory approach, one that has shown every indication of having been dictated from the boardrooms of Exxon or Mobil. Even in the face of impending gasoline shortages during this past summer, it was only late last spring that this President finally dropped import quotas. In as many months we have witnessed the appointment of four separate energy czars, the last no more effective or believable than the first. Only on the fifth go-around have we been presented with a strong, competent administrator. We have heard appeals for compliance with voluntary fuel conservation measures that are designed to apply equally to all, yet in almost the same breath we hear of a double standard for motor vehicles that has already resulted in massive disobedience and failure.

Why could we not have seen a well thought out, comprehensive, thorough program before now that could have dealt with our problems starting now, instead of the daily kibitzing and conflicting reports in the newspapers by various administration figures that we have seen? Why cannot we expect to get sincere, concrete energy proposals instead of denunciations against the Congress and vainglorious puffing about nonexistent Presidential energy packages? Why is it that Speaker Albert has to issue statements setting the record straight about impounded energy research funds, about the actual contributions that coal and the naval reserves can make to our problems now, about hanging on to import quotas to the bitter end or about the antagonistic unrealistic and misleading response that this President calls his energy message to the Nation?

With this state of affairs as a background, Mr. Chairman, I think I need not plead overlong for the particular features of H.R. 11450 which expressly delineate the measures the President must take in the event of a national energy shortfall. I need not add, I think, that exceptional and persuasive congressional leadership is mandated by this set of circumstances. I hope all my colleagues will agree that it is imperative that the Congress provide for measures which in its considered, best judgment, it deems are adequate to deal with any possible energy shortage. Finally, I trust I can assume the support of all here present for the provision contained in H.R. 11450 that all measures, all restrictions apply equally to every part of the country. And this should mean that every region ought to enjoy the same benefits and share the same hardships as all other regions.

Such a provision is particularly important to me, representing as I do a New England district. We are all being asked to cut back on the use of home heating and residual fuels by 15 percent. Yet, New England is unique among other regions of this country in its dependence on im-

ported oil. We literally have no refineries located in the region to serve our needs. It is estimated that actual shortages of residual fuel in New England may reach 50 percent, home heating fuel 30 percent. Both percentages greatly exceed what is being expected of us—or any other region—yet we will be much more seriously affected due to our almost total—70 percent and 75 percent, respectively—dependence on these fuels for power and heat.

To the people of New England, this winter had already looked to be a grim one. With the Arab embargo and the low priority that fuel oil production has received because of price freezes at seasonal lows, we are no longer concerned merely with tightening our belts. Now the question is one of survival—for businesses of all sizes, for what meager share of the national prosperity we now have. Unemployment in my home State of Massachusetts is nearly double the national average now. I receive calls every day chronicling layoffs and shutdowns in industries ranging from plastics to clothing manufacturers.

Mr. Chairman and members of the committee, New England needs relief. We need it now and we need our fair share—of jobs, of fuel oil, of the attention of this Government. I believe that H.R. 11450 fills the needs for measures which must come if we are to survive our energy shortage without economic recession and depression. It does so in a manner that will insure that the Congress has a good deal to say about the matter. It will also mean, I believe, that justice and proper flexibility will work hand in hand to guarantee equality of treatment under the law. I, therefore urge your favorable consideration.

Thank you.

Mr. ECKHARDT. Mr. Chairman, I should simply like to comment briefly on the question of the gentlewoman from Michigan. As I understand, under present law, the President both under the Economic Stabilization Act and under the Emergency Petroleum Allocation Act, has the authority to set prices. What we do in this act is to provide that, if those prices result in windfall profit, there be a way that these windfall profits can be recouped by those who have been overcharged.

We do not in any way impose a tax.

Mr. MACDONALD. Mr. Chairman, I agree with the gentleman.

Mr. DEVINE. Mr. Chairman. I am just going to speak generally on the overall subject of the so-called energy crisis. I do not expect to get into the technicalities of the bill, because there are many.

It is unfortunate that, as I look across the floor of the House, I see less than 50 Members on the floor, and when I look at the press gallery—although I guess we are not supposed to talk about that—I see there are less than a half dozen members of the press here. And yet this is one of the most crucial issues facing the American people today.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DEVINE. Mr. Chairman. I will not yield to the gentleman if he intends to ask for a quorum. I will not yield if that is what the gentleman has in mind.

Mr. ROUSSELOT. Mr. Chairman, I do.

Mr. DEVINE. Mr. Chairman, I do not yield for that purpose.

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond.

[Roll No. 657]

Abdnor	Hanna	Quillen
Bolling	Hansen, Wash.	Rees
Breckinridge	Hastings	Rooney, N.Y.
Burke, Calif.	Hawkins	Ryan
Carney, Ohio	Heckler, Mass.	Sandman
Clark	Horton	Sikes
Clay	Hunt	Slack
Collier	Jarman	Smith, Iowa
Conyers	Johnson, Calif.	Stephens
Culver	Leggett	Stokes
Diggs	Long, La.	Stuckey
Drinan	Long, Md.	Symington
Erlenborn	McKinney	Taylor, Mo.
Evins, Tenn.	Mathis, Ga.	Udall
Fisher	Melcher	Walsh
Foley	Minish	Widnall
Fraser	Mitchell, Md.	Wiggins
Frey	Moorhead, Pa.	Wilson, Charles H., Calif.
Ginn	Obey	Wright
Gray	Pepper	Wyatt
Gubser	Powell, Ohio	Young, Ga.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11450, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 369 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. DEVINE. Mr. Chairman, I regret any inconvenience caused to Members of the House in being called by a quorum. My contribution to the debate here will not be of such moment that it will particularly be long remembered. I merely wish to point out that when I mentioned the fact that there were half a dozen or less in the press gallery, and less than 30 on the floor, that the concerns of the people of the Nation was not necessarily reflected by floor attendance here.

And this is probably one of the most critical issues facing our Nation today. We get letters from schoolchildren saying: What caused all this? What is the problem? A great many people are looking for someone to blame rather than seeking solutions.

I would be quick to point out that the President 2 years ago sent a message to this Congress and offered seven programs to be adopted and we in our laborious way have finally adopted one, signed by the President earlier this month, and that was the trans-Alaska pipeline.

What was the cause? Did anybody anticipate these problems? Yes, they did, but we did not do anything about it and we thought perhaps that it would go away.

One of the problems is that although refineries may be putting out as much oil this year as they did last year, the consumer consumption

has increased amounts up to something between 7 percent and 12 percent. When we add to that and couple with it the reduction of oil coming in from the Arab States, from the Arab countries, which is 11 to 12 percent, we find that this shortage combined with the increased usage compounds the problem to over 20 percent.

I think the public has been generous in its response by exercising restraint in the use of such things as gasoline, electric lights, heat, and air-conditioning at the request of the President, recognizing that indeed there is a shortage, and although they would deplore rationing they would accept it only if it was a last resort.

Many people have indicated by mail that the last thing they want is an additional tax or an increase in price because that would hurt the poor people more than any other segment of our society.

But these are all problems we know and recognize and we have to try to seek a solution.

I would say in behalf of the Committee on Interstate and Foreign Commerce and our chairman and members that they worked very hard, having morning and afternoon and in some cases evening sessions. We had more than 100 amendments to clean this up and make it more palatable. We deplored the rule which was granted but it was the only type of rule by which we could get this bill up for consideration. Our response today should be to do the best we can with what we have and try to come out with a reasonable solution.

One anomaly is that so many people who deplored this, particularly on this—Democrat—side of the House, base it purely on granting authority to the President and screaming about the Presidential grab for power but they hastened in this bill to throw this power to the President. They do not want the responsibility for rationing. Let him have it. Of course they say we should not transfer power to the President because he is power mad, and he is the same one they want to impeach for exercising bad judgment in the use of his power; so it is hard to understand why in this bill they want to grant him this power, other than possibly having a “patsy” to blame if people do not care for the result.

For some reason in the committee we took out the word “rationing” because rationing is not acceptable to the people. We put in another word or words something like “fuel allocation” or some other substitute there because they do not want to talk about or to think about rationing as such. This bill says the White House shall do this and then they have to report back to the Congress within 30 days except on rationing. They leave rationing to the President, because if it does come they want to say he did it and we did not do it. Let us put the responsibility on him. Let the President be the scapegoat.

It is a peculiar bill, a peculiar instrument with many political ramifications which we recognize. But let me say that Watergate will not even be a political issue this next year if our people do not get fuel to heat their homes or to turn on their lights or to drive their automobiles. If they lose their jobs because of the lack of fuel, they will not talk about Watergate but they will talk about us if we fail to do the right thing in an effort to meet this serious problem head on.

That is the reason we are here today. We are trying to do our best with a rather cumbersome, imperfect bill to create a workable solution.

Mr. GUDE. Mr. Chairman, I commend the gentleman for his statement as it applies to Congress facing up to rationing. I think we in the Congress have to bite the bullet as well as the administration. As I have said I think rationing is inevitable and I think for us to bypass the issue is an obvious political gambit, throwing the whole responsibility over to the White House. Both Congress and the administration should face up to their obligations. Rationing is undesirable but when compared to other systems of distributing gasoline it is the best.

I think it is a little bit as Winston Churchill said about democracy, that democracy is a terrible form of government but it is the best yet that has been devised and tried by man.

Mr. DEVINE. I thank the gentleman from Maryland.

Let me conclude by saying that there are some provisions in this legislation that could be helpful and those that would permit a suspension of some of the EPA regulations are among them.

I do not oppose environmentalists. I think environmentalists have a very important part in our society. We do have to clean up the water, the air, and the countryside. But we have to be realistic. They must moderate their positions. This legislation will authorize the President to suspend some of the emission standards that create problems and cut gas mileage, while we have a shortage of gasoline. These are things we have to consider to come up with the best bill possible.

Mr. HEBERT. Mr. Chairman, I take this time in order to make an inquiry of the chairman of the committee.

Page 4 of the bill, lines 1 and 2, provide for "equitable treatment of all sectors of the economy." [Sec. 101.] Further on, page 44, lines 9 through 17, provide that actions taken pursuant to the authority of this act: [Sec. 115]

Resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users.

Do I understand that the provisions of the bill to which I refer are intended, among other things, to insure that users, as well as members of user classes, of refined petroleum products and electrical energy shall be treated equitably among other users and among other members of their respective user class, and that there shall be no discrimination or favoritism shown for one member of a user class over and above another member of the same user class. That is, a member of a user class, whether that user class be manufacturers, the agricultural industry, the sports industry, or the aviation industry, will be treated equitably along with the other members of its respective user class.

Mr. MOSS. Mr. Chairman, if the gentleman will yield, the answer is that the gentleman's question correctly states the intent of the committee in the adoption of the amendment offered by the gentleman from California (Mr. Goldwater). It is intended to prohibit any kind of unreasonable discrimination between classes of users. It is dealt with more extensively on page 27 of the report accompanying the bill.

Mr. HÉBERT. Then as I understand the gentleman's remarks, there will be no discrimination in the sports field, I have particular reference to?

Mr. MOSS. No unreasonable discrimination; the gentleman is correct.

Mr. HÉBERT. Who is going to determine whether it is reasonable or not reasonable?

Mr. MOSS. The Administrator and, of course, in the courts there is a long history of case law in the construing of the term "reasonable."

Mr. HÉBERT. Why was the word "reasonable" used?

Mr. MOSS. The term was used advisedly because of the extensive case history in the construction of the term "reasonable" in the courts.

Mr. GOLDWATER. If I may respond to the question, there was much discussion on this particular topic at the time the amendment was eventually adopted.

I think it was the intent, as Mr. Moss tried to explain, that we do have a shortage. I think it is reasonable to assume that wherever possible, we should all try to shoulder the burden equally.

The Administrator does have the priority and the authority to establish priorities; but once a priority is established, a classification and all in that classification would be and should be treated equitably.

Mr. HÉBERT. That is what I ask the question to determine; but the other question which the gentleman from California did raise was the use of the word "reasonable" and that was the further question I asked, who would determine the use of the word "reasonable"?

Mr. MOSS. If the gentleman will yield, I felt it incumbent upon me to explain the meaning of the word "reasonable" and that this has been well construed in many court cases in this country; but the clear intent is that it be equitable.

Mr. HÉBERT. That is the intent?

Mr. MOSS. That is correct.

Mr. HÉBERT. Mr. Chairman, I thank the gentleman.

Mr. NELSEN. Mr. Chairman, I want to reemphasize the comment made by the gentleman from Ohio (Mr. Devine) a few months ago. I noticed in the colloquy some language to the effect that the President should have done something earlier. About the next paragraph or two further on, we complain about the unprecedented power that we have given him. I commented in the hearing in the committee that I hope we do not proceed on the basis of transferring power and then criticizing the use of it.

I want to say this, that in the committee hearing I found a very bipartisan attitude of trying to go ahead and do a good job. That is what I want to do, and I know the chairman does. I want to compliment our chairman, Harley Staggers, for the patient way that he presided over this hearing, and I want to say he did a very great job. I supported the reporting of this bill from the committee, feeling that we had to meet our responsibility and bring a bill to the floor, not necessarily agreeing with every phase of it, but certainly it is necessary to bring a bill out on the floor.

I want to point out to the staff that we have amendments in this bill, I think one goes in one direction and another goes in another direction, and the poor staff has to sit down and try to figure it out, how to take care of it because, really, we do put them on the spot.

Mr. Chairman, may I say this: That the thing we are faced with today is available power supply, available fuel supply, and we find today the trucks of our country without an adequate fuel supply to bring the products around the country in our distribution system. But maybe we are to blame a little bit. We in our committee handled the Clean Air Act. Maybe we pushed a little too fast and a little too far and as a result, instead of 18 miles to the gallon, we get 8. We then move into the area of some of our limitations that we have provided through EPA where coal lies idle; where nuclear power upon which we have spent billions to develop as a possible source of power lies idle in many cases.

However, I want to say this to the Sierra Club and others interested in conservation: I take my hat off to them, because they recognized that we were going in the wrong direction and they put the brakes on. But, I also want to call attention to John Saylor's speech before our committee some months ago—and he is one of the real disciples of conservation—who said in the committee that we had to be tough, but we have reached the point now where there must be some adjustments, and I think that is becoming more and more obvious.

Mr. Chairman, I would like to call attention to the fact that really now, as I pointed out in the hearing, if we are going down the road at 90 miles an hour and make a right angle turn, we are going to roll over. We are in that position, and some of the things that are happening, we had a hand in doing them.

My good friend from New York (Mr. Murphy) and I joined hands in an amendment that would provide that where the ambient air quality is not disturbed, we can use alternate supplies of fuel. In this case it could be coal, and of course the thing we are interested in is the overall ambient air quality where human beings are not damaged because of the ambient air quality that may prevail.

Now, the individual emissions, stack emissions, might not meet the standard that has been set up, but the overall standard may have been set up, but the overall standard may have been maintained, and we have safeguards in this bill to protect against it. The gentleman from New York (Mr. Murphy) and I joined in the committee to do exactly that.

Mr. MURPHY of New York. Mr. Chairman, I would like to point out that the Clean Air Act was written and brought to this floor and passed by this committee, and that the committee has no intention of permitting a relaxation of those safeguards to insure clean air and maintain clean air.

Mr. Chairman, the Committee of the House has no intention of permitting a relaxation that would go back in terms of turning the clock back on some of the air pollution problems we had, particularly in my city and in some of the other cities of the country.

I think the language, as we amended it in the committee, along with one further technical amendment which we will offer on the floor, will protect and insure that the quality of air in the airsheds is maintained, and also that we do meet our responsibility to the problem of the production of energy and the proper use of fuels within our resources, and I am sure that the language will be accepted in the Committee of the Whole.

Mr. NELSEN. Mr. Chairman, I thank the gentleman.

I would like to make one more comment.

I received a letter from John Madgott, of Wisconsin, the manager of one of the fine REA powerplants in the Midwest. I received another letter and a telephone call from Andy Freeman of North Dakota, who runs another powerplant dealing with the REA program.

In North Dakota we have vast coal supplies, and they want to build a powerplant right on top of the coal supply. They want to transmit this power to the Twin City area, where population areas are extensive. This will be done by transmission lines which will not disturb the ambient air quality at all in the wide open spaces, bringing this energy to the Twin City area and distributing it to the needs of the country.

I want to say that this is what we are trying to do. We are not trying to disturb the ambient air quality, but we are trying to follow the mandates of the original Clean Air Act, where in all cases we tried to take into account all of these problems.

I want to say that I hope we can really put this thing together so that we can harness our energy and our fuel supply to produce power and to reduce the demand on petroleum products which we find ourselves in short supply.

Here in my hand I hold an editorial from the St. Paul paper, the Pioneer Press, entitled "Our Attractive Coal".

This editorial points out how the Dutch, the French, the Italians, and the Japanese are picking up coal supplies in the United States at this time and transporting them to other countries and putting them into industry to compete with our industries at home.

Mr. Chairman, it seems to me that we need to wake up and begin to use the resources that we have.

Mr. YOUNG of South Carolina. Mr. Chairman, everyone knows we are experiencing an energy shortage. Everyone knows the long-range solutions—develop and expand additional energy sources such as the sun, oil shale, the atom, and deep seabed reservoirs; improve delivery techniques with deep water ports, and the Alaskan pipeline; and ultimately move to energy uses that are less wasteful.

All of these things can be done. And, I think now they will be done. This is our silver lining. If 2 or 3 tough years will make us take the kind of action we should have been taking over the last 20 years, we may be able to look back and say—as George Washington might have said years after Valley Forge—"Well, it was worth it."

The key missing word in most discussions of short-term goals in the oil crunch is price. And herein lies a fundamental difference between philosophies. I have a general inclination to let the fair market price allocate resources. Others would have a general inclination to trust rationing—and an inevitable bureaucracy—to do the job, apparently assuming that supplies and needs are stable regardless of price.

But supplies and needs do not operate in a vacuum—they fluctuate with the prices. I need food. And I like grits, some may look at me and say too much. But I like grits much more at 20 cents a pound than I would at \$1 a pound. At some point in between, I imagine I would transfer my "need" for grits into a need for potatoes. At that point, it becomes more profitable for others to start growing more potatoes

to meet my needs. If, on the other hand, I still wanted my grits at \$1 a pound, an awful lot of people would be planting an awful lot of corn, thereby bringing the price down.

Well, the Nation needs energy. Today, we prefer oil and gas to its solar and nuclear forms. But would this preference hold forever in the absence of Government price fixing? I do not think so.

What sort of price increase would it take to deter gasoline consumption by 10 percent? Great Society economist Walter Heller, figures a price rise of between 15 and 20 percent, which is in line with the highest guesses of Gov. John Love and Prof. Milton Friedman. If they are correct, gasoline would then level off at about \$0.55 a gallon—hardly enough to make rationing necessary. In most countries, gasoline costs at least twice that.

What about those who would deliberately hold petroleum off the market to keep the price up? In the first place, it would speed up the encouragement of others to market solar and nuclear energy. In the second place—since no single oil company controls more than 10 percent of the market—collusion would be required. And I would be the first to call for a vigorous use of the big stick we have in our antitrust laws. No sane corporation would mess with that kind of power.

I find it interesting that those who would prevent the price of gasoline from finding its fair market level have no objection to additional taxes on gasoline. One day, the New York Times says "higher gasoline prices constitute a regressive tax." On another it says, "higher taxes on gasoline can indeed carry part of the burden." A voluntary conservation drive is fine, but it has less impact than a spitball when it conflicts with economic incentives. Coupon rationing gets hopelessly bogged down as bureaucrats try to decide whether to hand out coupons per car, per house, or per person; to sort out essential driving from nonessential driving; to weigh hard-luck stories; and to deal with black markets.

The way to get people to insulate their homes, drive noisy little cars, and stop making office buildings out of glass is to make energy expensive enough to justify the cost of conservation. Allowing energy prices to seek their natural level is the least arbitrary way to discourage energy use. The price system is simply the best rationing device ever invented, and if it were not able to handle a 10- to 20-percent shortage, we would not be eating more meat today than we were during the beef price freeze.

MR. GOODLING. Mr. Chairman, I asked for this time to point out something which I consider very irregular that is taking place in my district at this time.

When I read the committee report discussing some of the highlights of this bill, I found that it says this very plainly: That industry must convert to coal, and it must continue to use coal if it is using it.

As I say, I asked for this time to point out how inconsistent, absolutely inconsistent, the Department of Defense is.

I have in my congressional district the Mechanicsburg Naval Depot, and I have been told that this is the largest supply depot in the entire United States.

I also have the New Cumberland Army Depot in my district. You have probably guessed that right in these particular facilities they

are converting from coal to oil, if you can think of anything more ridiculous or asinine. I and some of my Pennsylvania colleagues have been fighting this for more than a year, but, as usual, the Department of Defense wins.

Geologists tell us that we have a supply of coal that will last 500 years and a sizable amount of it is right in Pennsylvania. In fact, both of these installations that I mentioned are practically sitting on top of coal mines. One has already been completed and was put in operation about a month ago. The other one is in the process of being completed right now.

One of the excuses that the DOD gave me was that they simply cannot meet the emission standards. I told them in no uncertain terms, and probably in terms I will not use here.

Do not give me that line. If we can place 12 men on the moon and additional men on Sky Lab, do you have the nerve to stand here and tell me we cannot meet emission standards if we make up our minds to do it?

In spite of protests, they did it. What we can do about it now I do not know.

I would like to ask the gentleman chairing the committee at this time, is there anything this Congress can do now under the circumstances to stop this one installation that has not already been completed?

Mr. Moss. I must admit to the gentleman I have had about four Members here asking me to respond to questions, and I would simply state that if you will restate your question, I will attempt to respond to it.

Mr. GOODLING. I believe you will agree with me that it is a pretty ridiculous thing to be doing at this particular time. Would you not?

Mr. Moss. I would agree with the gentleman that we are faced with a very difficult situation. We have attempted here on both sides of the aisle to come up with the best solution available at this moment.

I draw your attention to sections 103(h)(1) and 105(b) of the bill, which provides for top priority to the maintenance of vital services such as health care and hospitals. As you know, some of the most critical substances today are petrochemicals. For example, petrochemicals are used in the production of solvents essential to the manufacture of penicillin, sulfa drugs, antiseptics, and germicides. Petrochemicals are also used in the production of plastics and rubber substitutes used in medical devices such as syringes, tubing, artificial heart valves, and other vitally needed health care products.

Is it your understanding that this section is intended to include priority for the allocation of petroleum products including propane to the petrochemical industry for these purposes?

Mr. Moss. That is my understanding, and it is a matter which was discussed at some considerable length during the course of the markup. I think it was made quite clear that it was the intent of the committee that that be done.

Mr. BROOKS. My distinguished friend from California, a number of my constituents have voiced serious concern about the effect this legislation would have on the availability of fuel used for agriculture aviation purposes.

Section 103 of this bill states that—

A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, *agriculture*, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

Is it correct that petroleum products used in aviation for agriculture purposes such as crop dusting and planting will be entitled to priority as an agricultural use and not treated as a general aviation use?

Mr. Moss. It is my understanding that it would be dealt with as a matter of priority in the maintenance of agricultural operations as set forth in the report on the Emergency Allocation Act which passed this House earlier. The report number is 93-628. In section 4 thereof the exact language is "maintenance of agricultural operations, including farming, ranching, dairying and fishing activities and services directly related thereto as a part of the mandatory allocation."

The answer, succinctly stated, to the gentleman's question, is that the gentleman is correct; it would be agricultural and not regarded as part of general aviation.

Mr. Brooks. I thank my distinguished colleague, the gentleman from California (Mr. Moss) for this clarification.

Mr. ECKHARDT. Mr. Chairman, the purpose of this act is to make do with what we have got. That is the real purpose and objective of the act. The situation is precisely this: We have approximately 16.7 million barrels of crude oil per day which we must make do in place of 19.7 million barrels of crude oil per day.

Section 103 of the act is the most important section of the act. It creates the machinery by which we can accomplish this objective. To point precisely to the language that permits it, my colleagues should refer to page 4 of H.R. 11882, lines 4 through 8. And if my colleagues have the original bill, the same language is found on page 7, lines 20 through 25, where it is provided that an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product may be established by the Administrator. Incidentally, the language reads "President," but if one looks at page 9 of the bill the authority here granted to the President is transferred to the Administrator.

That is the section that permits allocation. That is the section that permits one user to receive a petroleum product rather than another user at a lesser level of priority, or an area of the country to be treated fairly as against another area of the country.

The other important part is on page 5, lines 8 through 17. If the Members have the other copy of the bill, the one that was passed out originally with the strikeouts and the revisions, it will be found on page 8, line 24, through page 9, line 8.

That section provides, and it uses again the term "President"—for which you should read "Administrator," because of the provisions on page 9—that the Administrator may require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum products produced through such operations.

Well, that is the problem: to get, as I said before, from 16.7 million barrels of crude the same amount of residual fuel oil and distillates, that we would have gotten from 19.7 million barrels.

How can this be done? We presently produce our residual fuel oil and our distillates from approximately 25 percent of the barrel of crude oil. Using the 25-percent figure as against 19.7 million barrels, we get a certain quantity of distillates and fuel oil. What, then, is the percentage needed to get the same amount of distillates and fuel oil from 16.7 million barrels, the reduced amount of barrels of crude? If you will figure that out, you will find you have to move up to 29 percent of the barrel. Now, that is the problem.

Therefore, **section 103** is the major answer to the shortage: Go up 4 percent in the percentage of the barrel used for the most necessary purposes, for home heating and for turning the wheels of the economy. We give the President that authority in **section 103** without reserve. We do not tell him he has to come back to Congress. He has got it, if this bill is passed. He may have it under present language of legislation we have already passed—the Economic Stabilization Act and the Emergency Petroleum Allocation Act. But to make it absolutely clear, we spelled it out in the language which I read to the Members. What is the cost of producing that amount of distillate and fuel oil? It may be as much as 5 percent less of the barrel used for gasoline. In other words, we might have to drop from 45 percent of the barrel which goes to gasoline to 40 percent. If we do that we are using 40 percent of 16.7 million barrels instead of 45 percent of 19.7 million barrels.

If we go to the trouble to figure that out mathematically, we will come out with 25 percent less gasoline than we would ordinarily use. That is the problem.

The question is primarily one of allocation. However, I must point out that the bill really deals with three subjects in order to meet the crisis: Allocation, as I have described, under **section 103**; proscribed and monitored use, which is contained in **section 105**; and means of stretching available resources, which is contained in **section 106** and in **title II**.

What has our House committee done? Our committee has acted discreetly in these three areas. In the area of allocation, we have granted power to the Administrator to act immediately and extensively. We do not delegate such extensive authority with respect to proscribed and monitored use, as, for instance, in closing down stores that remain open until 11 p.m., or with respect to denying electric power to the bowling alley, or telling somebody he cannot use gasoline in his private plane, or providing rules and regulations to command carpooling. With respect to that area, we do not delegate authority. We provide that the Administrator may recommend a plan, and we must independently act upon that plan after hearing the persons who may be injured by such proscription or such monitoring.

I think that is fair. I think that is desirable. and I think if we do not do that, we are going to have many irate people who will tell us that we have done more than we should have done in emergency legislation.

The third thing we do, and that is covered by **section 106**, in **title II**, is to devise means of stretching available resources. In those sections we provide for coal conversion, and in those sections we relax EPA provisions with respect to clean air. We do it discreetly, and we limit those provisions. I think, in general, we do it properly. I think there

are desirable amendments to those sections, but we are at least shooting in the right direction.

Why is this bill preferable to the approach in the Senate bill? The Senate bill does not make these discreet differences between that which must be done and that which we may think might well be done. The Senate bill simply delegates full authority to the President by plan to deal with allocation, to deal with proscribed and monitored use, and to deal to a large extent with means of stretching available resources.

I submit to my colleagues here, and I particularly urge those sitting to my left, that they should consider how quite conservative our approach is as compared to the Senate approach. In a crisis and in emergency legislation, above all other times, power should be delegated as sparingly as possible.

This is the very time when we should not delegate unnecessary legislative power to the Executive.

What is the necessary power that must be delegated? It is the allocating power. It is the allocating power and not the power to proscribe and to monitor. That power should remain in our hands. That is precisely what we have done in the language of this bill.

Mr. BROWN of Ohio. Mr. Chairman, I rise at this time to discuss those provisions which are already in the bill, the so-called antitrust amendments, so that I can give to those of my colleagues who are here some background on this particular part of the legislation and perhaps later on I will have an opportunity to discuss one other amendment which the rules makes in order for me to try to include in the legislation.

Experience over many years has shown that many segments of industry are hesitant to cooperate fully and freely with the Government in programs of joint action. The risks associated with later charges of price manipulation or other restraints of trade arising from requested action taken with competitors is too substantial, many companies feel, without some solid assurance of immunity under the antitrust laws.

This is particularly true of the petroleum industry, which has had numerous brushes with the Federal antitrust agencies over the many years since the old *Standard Oil* case. Oil companies at all levels of the industry, we have found, are extremely reluctant to meet, discuss problems, and take any action together which might in any way be construed as violating the antitrust laws. Unless assurance against later attack by antitrust agencies can be provided, no meaningful joint effort by these companies to assist the Government in dealing with our national energy problems can be successfully mounted. Industry cooperation would only be hesitant, partial, overcautious and necessarily incomplete.

Yet at the same time, provision for antitrust immunity must be carefully and narrowly drawn. The antitrust laws are an integral part of our economic policy of competitive free enterprise. Any exemption from their general applicability must be in response to a clearly defined need.

It must cover only specific conduct requested by the Government to meet an overriding governmental need. And it must apply only to specific groups undertaking that action. I believe that the antitrust provision we have drafted in cooperation with Congressman Moss, the

Antitrust Division of Justice, representatives of the industry and the committee counsel, meets these objectives while also providing adequate safeguards to assure against abuses in the exempted conduct.

Section 120—which passed the committee 28-8—provides for the establishment by the Administrator of the Federal Energy Agency of voluntary agreements, as well as plans of action to implement them, which he determined to be necessary to accomplish the objectives of **section 4(h)** of the previously passed Emergency Petroleum Allocation Act of 1973. He shall also promulgate rules, standards, and procedures under which these programs of joint effort are to be developed and carried out. Eligibility for signatories to voluntary agreements and participants in plans of action, however, is specifically limited under **subsection (d)** to persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum products.

Subsection (g) provides that actions taken in good faith to develop or implement a voluntary agreement or plan of action shall not be construed to be within the prohibitions of the Federal antitrust laws, the Federal Trade Commission Act, or similar State and local statutes. This exemption is strictly limited to actions taken in accordance with this section and the rules to be promulgated hereunder, and given only to participants engaged in those branches of the petroleum industry I have just mentioned. Taken together, these provisions insure that voluntary agreements and accompanying antitrust immunity will be limited. Under another **section 114**, of this act retailers are similarly exempted so that they can set voluntary agreements to assist conservation of energy.

Both sections contain a number of safeguards to protect the public and insure open deliberations. Meetings to develop a voluntary agreement or plan of action must be chaired by a regular fulltime Federal employee and must be preceded by timely notice, including the agenda, to the Attorney General and the Federal Trade Commission. A full and complete verbatim transcript of such plan developing must be kept, which shall be deposited with the Attorney General and the Federal Trade Commission and made available for public inspection in accordance with the Freedom of Information Act.

Public participation in the planning is also assured in other ways. There must be advance notice of meetings to the affected community, and interested persons must be permitted to attend and present their views. In addition, the groups which are formed to develop agreements and plans are required to include representatives of the public. I would note here, parenthetically, that although **section 120** does not specifically so state, we would envision that the Administrator's procedures would require that the industry composition in these groups must include adequate representation to all segments of the branch of the petroleum industry involved, such as labor.

The Attorney General and the Federal Trade Commission are involved at every step of the planning process. The voluntary agreements and plans of action are formed subject to their approval, as are the governing rules, standards and procedures promulgated by the FEA Administrator. I have already noted that each agency receives notice and the opportunity to attend all meetings and receives written records of all meetings. Finally, each agency is to monitor operations

under **section 120**—which under this bill are to last, at the latest, until May 15, 1975—and submit reports every 6 months to the Congress and the President on the impact on competition and small business.

The most important antitrust safeguard, however, is that each voluntary agreement or plan of action must be submitted in writing for approval to the Attorney General and the Federal Trade Commission at least 10 days before being implemented. Either of these parties may modify, amend, disapprove or revoke any such agreement or plan, upon their own motion or upon the request of any interested person. This action may be taken at the time of initial submission or at any time thereafter when operational experience dictates the need for such action. If an agreement or plan should be revoked, this thereby withdraws prospectively the immunity which had previously been conferred.

I would note in conclusion that **section 120** also provides for the establishment by the Administrator or advisory committees to assist him in carrying out his duties under the act. Their formation and operations are hedged with similar safeguards to the public. However, they are separate and apart from voluntary agreements and plans of action which alone carry antitrust immunity for participants.

The purpose of **section 114**—the limited retail antitrust exemption—which passed the committee 23-13—is to provide a temporary and carefully circumscribed exemption from the antitrust laws for retailers to enter into limited kinds of voluntary energy conservation agreements that promote the objectives of the act.

There are two important considerations underlying this provision that should be emphasized. First, the limited exemption conferred by this section is essential if there is to be an immediate response by the hundreds of thousands of retailers to the energy crisis. Second, the exemption is very limited and subject to careful controls against abuse. Let me discuss these considerations in more detail.

The reason why this section is necessary is because as the act is now written energy conservation measures depend upon Government initiative and there is a limit to what Government can do. Federal and State officials, by necessity, will have to concentrate on broad programs. They will not have time, at least at the outset, to pay attention to the thousands of minor items which individually might accomplish little but which collectively can result in enormous energy savings.

Government will not, for example, be able effectively to legislate the details of fair closing hours for the thousands and thousands of stores in different settings all over the country, whether they be in village centers or large suburban shopping centers. There are just too many thousands of establishments involved. These stores are willing to contribute to the energy conservation effort if their neighbors will do the same. But they cannot make a joint contribution without running the risk of Federal and State antitrust violations. **Section 114** would temporarily eliminate this problem. Thus, by encouraging retailers at the local level to cooperate in developing energy saving measures, the provision will enable them to take steps immediately to further the objectives of the act without burdening government with the need to initiate thousands of detailed proposals and without the delays that otherwise exist.

The exemption provided for, however, is as limited and controlled as it is necessary. The section provides that notice will be given of all meetings between retailers, that the public can participate, and that summaries of the meetings must be kept and must be submitted both to the Federal Trade Commission and the Attorney General. Discussions between retailers will thus be carefully monitored. There is no exemption, of course, for talks or agreements that stray from the objectives of this Emergency Energy Act.

Most importantly, voluntary agreements under this provision must promote the objectives of the act. They must be submitted to the Attorney General 10 days before they can be acted upon, and they can be modified or terminated by the competent authorities at any time. They may not, in any event, remain in effect beyond May 15, 1975. Finally, protection against abuse of the exemption will be guaranteed by the participation of the Department of Justice and the Federal Trade Commission in the development of the basic standards and procedures governing meetings and agreements.

The proposed amendment does preempt the operation of State anti-trust laws with respect to conduct taken pursuant to the provision as well as exempting that conduct from the Federal antitrust laws. This preemption is essential, since State antitrust laws are similar to the Federal antitrust laws and could, absent a preemption provision, prohibit the agreements called for in the proposed amendment.

There is, in sum, more than ample justification for this limited exemption and more than ample insurance against abuse.

Mr. HUDNUT. Mr. Chairman, the Environmental Protection Agency is in the process of promulgating transportation control plans for some 38 American cities, of which Indianapolis is one, consequently I would draw the committee's attention to **section 202** of the Energy Emergency Act (H.R. 11450) which contains a very significant modification of the power of the Environmental Protection Agency. It prohibits EPA from ordering parking fees in the future and declares all parking surcharge regulations previously promulgated by the Administrator of the EPA as null and void upon the date of enactment of this legislation. The Administrator is instructed to conduct a study of the necessity of parking surcharges and report back within 180 days. This section also gives to the States the right to develop such transportation control plans regarding parking as they may deem wisest in their effort to achieve high-quality clean air.

I feel very strongly about the importance of this subsection because the district I represent, which forms part of the community that is Indianapolis, Ind., had a very unpleasant experience when representatives of the Environmental Protection Agency conducted a public hearing in Indianapolis on November 28, 1973. The entire civic and business community as well as the mayor of Indianapolis and his administration were antagonized by the high-handed arrogance of these four bureaucrats who came into town as though they had just stepped off Mount Olympus, gratuitously delivered their statements of intent about promulgating a transportation control plan for Indianapolis, treated the testimony of leading citizens of Indianapolis with apparent disdain, and left town with the threat that their regulations would be promulgated by December 15 and implementation would follow in

3 or 4 months—or else. The whole episode was a sorry example of the tyranny of the bureaucracy and I cannot sit idly by and watch the business and commercial interests in my district crucified on the altar of air purity by arrogant bureaucrats who make no effort to work with the local community. This is not to imply that we should not relax our commitment to achieving clean air in our country, combating pollution, and improving the quality of our environment; it is simply to suggest that we should move toward these goals with patience and reasonableness, working with each other in a spirit of mutual respect and cooperation instead of assuming the position of hostile adversaries.

The most comprehensive report I received of the Indianapolis hearings came from the chairman of the board of one of our banks, and I take the liberty of inserting his letter to me in my remarks at this point:

DECEMBER 5, 1973.

Hon. WILLIAM H. HUDNUT III,
U.S. House of Representatives, Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN: The purpose of this letter is to bring you up to date on a situation involving the EPA that happened in Indianapolis during the month of November, 1973. I am writing you this letter so that you may be fully informed of this situation so as to reflect on something that could be very dangerous and that possibly is happening elsewhere in the country.

The EPA gave the community of Indianapolis seventeen business days' notice (Nov. 6, 1973) that they will conduct a hearing concerning seven regulations that they will promulgate becoming effective December 15, 1973. They mentioned that the hearings will take place on November 28 and 29. Needless to say, the short notice and the drastic impact of their seven regulations not only caught this city by surprise but caused all the leading citizens so much concern that they did not believe what they were hearing.

The following is a summation of the seven points:

1. The establishment of an annual inspection and maintenance program using an idle mode test: this will cover vehicles registered within Marion County.
2. A requirement that all pre-1968 and/or pre-control automobiles or trucks be retrofitted with non-catalytic emission reduction devices.
3. A parking surcharge applicable to all off-street parking within the city limits of Indianapolis. This surcharge would be at a graduated rate from 15¢ to 25¢ per hour, with a three hour grace period. It is our understanding that this surcharge would be applicable to all off-street parking, be it at a plant site, a shopping center, or a parking garage. The only area that would be exempt would be an individual's private driveway.
4. The creation of exclusive bus/carpool lanes.
5. Restrictions on the total availability of on-street parking within the city of Indianapolis.
6. A requirement that all service stations in Marion County purchase, install and employ appropriate vapor recovery control devices for all gasoline tank filling operations.
7. A regulation they call Complex Source, which stated in effect that there will be no new construction of any sort that would add one parking space to the city of Indianapolis. This would include shopping centers, apartment complexes, industrial buildings and commercial buildings. The only category exempt were single family residences.

Regulations regarding these 7 points would be promulgated December 15, 1973.

The above seven points were based on air quality data gathered over a 90-day period during the third quarter of 1971 in two locations using a measuring device that was out of order for approximately 45 days out of the 90-day period. The air quality data gathered was highly challenged by the local community as being far from accurate. Also the standards that they were measuring this data against (Clean Air Act of 1970) are to be challenged, however, the EPA indicated that those standards, that were set by virtue of the Act, are law and must be obeyed and adhered to.

I personally attended the first day of the hearing and was there for approximately 9½ hours. What I witnessed was the most frightening situation that I have yet experienced. There were four hearing judges, those being Messrs. John R. Chicca, Dale S. Pryson, William Y. Luneburg and Dr. Robert Zeller. The presiding officer at the hearing (Mr. Bryson) had an opening statement indicating that they were here to pick up public comment and opinion given the proposed regulations to be promulgated. The people testifying were the following:

GOVERNMENT

Honorable Richard G. Lugar, mayor of Indianapolis.
 State of Indiana—Mr. Pickard, Indiana Air Pollution Control Board.
 Richard Wetzel, UNIGOV Director, Transportation.
 Michael Carroll, UNIGOV Director, Metropolitan Development.
 Roger Pate, UNIGOV Director, Public Works.
 Gary Landau, City Legal Corp.
 Mr. Henderson, ICFAR (Indianapolis Center for Advanced Research).

BUSINESS, INDUSTRIAL, PROFESSIONAL, ORGANIZED LABOR, EDUCATION TESTIFIERS

American Fletcher National Bank—Frank E. McKinney, Jr.
 Indianapolis Chamber of Commerce—Donald R. Loftus.
 Eli Lilly & Co.—Patrick Butler.
 Indiana National Bank—John Benbow.
 L. S. Ayres & Co.—Dan Evans.
 UAW—Buford Holt.
 P. R. Mallory—Dr. Donald Wilson.
 Indiana Bell Telephone Co.—Max G. Lewis.
 Stokley-Van Camp, Inc.—Fred Laird.
 Indianapolis Parking Association—James Seidensticker.
 Indiana Petroleum Council—David R. Davis.
 Rock Island Refining Co.—L. E. Kincannon.
 Mobil Oil Co.—Robert Maynard.
 Insurance Institute of Indiana—Charles Van Arsdel.
 Indiana University/Purdue University Indianapolis—Vice Chancellor Ryder,
 Don Franklin.
 Merchants Association—Vince Haggerty, Sears, Roebuck.
 Indiana Paint & Coatings Association—William Wright.
 E. J. DeBartolo Corp.—Cy McBride.
 Indiana Farm Bureau.
 Indiana Motor Truck Association—Mr. Cline.

This list represents a great portion of the leading citizens of Indianapolis. All of these people were violently opposed to the EPA regulation, and the manner in which EPA came to our city to force these regulations upon this city and its citizens.

The "hearing" turned out to be the most frightening experience that those in attendance had ever viewed. Those that were testifying were cross-examined, belittled and tolerated. The four hearing judges treated them with contempt, disdain and refuted any point they made at will using as a justification their own (EPA) opinions and conclusion. The EPA people called for a "hearing" but instead they tried to tyrannize and belittle those testifying. The EPA people were judge, jury and dictator. To summarize some quotes picked up in the audience, they were arrogant, dictatorial, had preconceived opinions, closed minded, cute, lordly and as one party said, now he knows what a Russian Commissar is like when he has a public hearing. They haughtily were enforcing the standards set by the Clean Air Act of 1970 giving no consideration for what effect it would have on the community or its people. As one person said after walking out of the meeting, for about eight hours that day he did not know he was in the United States. Considering the age-old principle that this country was founded on that being government of the people, by the people and for the people, this group was practicing government to the people dictating in an unrelenting, closed minded, manner their regulations that they created to be promulgated on Indianapolis.

It is one thing to criticize regulations and I think we are completely justified in criticizing these regulations but even more important the manner in which

they were presented. I would like to offer some of the recommendations that the citizens and leaders of this city were trying to tell these four EPA people.

Concerning regulation No. 1 as stated above, there was general agreement providing that the pollution level is a level arrived at by a coordinated EPA/industry/local and State government decision.

Concerning regulation No. 2 there was disagreement with this unless the auto in question did not pass the annual inspection as stated in No. 1 above.

Concerning regulation No. 3 there was a unanimous opinion against this regulation. This, if implemented, would simply close the city of Indianapolis and there was strong testimony to this effect.

Concerning regulation No. 4 the Transportation Department of the City of Indianapolis is presently working on solving our mass transportation problem. We do not have any mass transportation except for buses and our transportation department is working on a master plan to serve this city.

Concerning regulation No. 5, again there was unanimous opposition to this regulation because without the automobile in Indianapolis, Indianapolis will stagnate and die.

Concerning regulation No. 6 there was testimony given that these devices simply do not exist. The EPA's curt answer to that was, in essence, "that is your problem, they must be in by March 15 of 1974."

Concerning regulation No. 7 I think you can see how absurd this is. What they are saying is that they, the EPA will dictate if any new construction can occur in Indianapolis, Indiana.

As mentioned before, all of the seven regulations were based on a very faulty air quality data base. The city of Indianapolis, the State of Indiana and the private sector has a different opinion as to the quality of air in Indianapolis and would be willing to prove it, however, the EPA hearing judges indicated that there is no time for that, we had our chance and now we have to pay the penalty. The four people seemed completely unwilling to work with those three groups in any way, shape or form.

One person asked the question to the four Judges, had any of them ever been to Indianapolis? The answer was "no, that was not necessary, we have our statistics to tell us what this city is all about"; however, one Judge expressed complete surprise when told that we do not have a mass transit system, thought that we had a system similar to Chicago.

All of us want clean air but we also want jobs, purchasing power and conveniences that our dynamic society can provide, given the opportunity for the free enterprise system to function. We all know that we can solve the many faceted air pollution problems by employing American industrial ingenuity and coordinated governmental effort. We are all quite skeptical that the pollution problems can be solved by employing overnight, expedient, temporary solutions generated by government dictates which have as their real result the harming of the consumer, who is our society.

We strongly encourage the EPA to work with the talents that exist in this country, be they from private enterprise or university campuses or other government agencies to effect over a reasonable period of time a total pollution control program which can be implemented and economically absorbed by an existing economic society. For example, I feel quite confident, and providing that the air quality standards were judged to be proper and correct, that had the EPA gone to the major auto companies and said let's work together to have clean air in five to seven years and had given the auto companies certain incentives, that the pollutants caused by the automobile could have been corrected through advanced engine research and development.

Instead, the auto companies were forced to add anti-pollution devices to the engines which raised the cost of the automobile to the consumer and resulted in a drastic decrease in engine efficiency (miles per gallon). This is a prime example of the EPA implementing haphazardly designed programs in the most expedient manner.

With this very vivid and most recent display of an EPA hearing, we are wondering in how many other cities across this country is this taking place? Something that is missing is the consideration for the people of this country, as well as the economic system that has made this the great nation that it is.

Sincerely,

Mr. HUDNUT. That was not the only reaction I received. The chamber of commerce stated:

The Chamber stands in strong opposition to all of the radical strategies now being proposed by the Administrator of EPA in the form of transportation controls for our region. . . . It is our judgment that the proposed rules in this plan (for extraordinary parking surcharges on off-street parking facilities within the metropolitan-Indianapolis area) are unrealistic and uneconomical.

One irate businessman wrote me and appealed to the House of Representatives "to protect us from this newest obnoxious form of tyranny." Another, in more temperate language wrote:

The proposals for Indianapolis appear to be using a shotgun to kill a fly.

Another wrote:

We folks in Indianapolis have built a pretty good place in which to live and work. We like Indianapolis just as it is. We do not want or need Federal interference in our businesses and lives. . . . The EPA wants to not just curtail our growth, but jeopardize millions of dollars and thousands of man hours spent in creating a workable, efficient and attractive central business district. What next? I genuinely believe we, the people, would be far better off without agencies such as EPA. . . . It would be nice to live in a society where all things are perfect—environment, social conduct, growing economy, etc., but let's face reality and adopt a philosophy of "all things in moderation."

Another businessman, vice president of one of the largest corporations in Indianapolis, wrote about the four EPA hearing officers in very strong language:

To me their action is nothing more than pig-headed, two-bit bureaucrats, shot in the posterior with a little bit of authority, refusing to admit they are wrong and trying to enforce their will upon the general population. If anything in the history of our country ever smacked of the Nazis and of Germany prior to World War II, this is it. As you by now probably are fully aware, the EPA took air samplings in Indianapolis in 1971 in two locations. One of these was located within one mile of the leeward side of the Rock Island Refinery on the north side of the city and generally away from populated or highly-developed areas. Based on these air samples (they refused to recognize samples taken later in different locations) this group of despots in the Chicago Regional Office of the EPA are trying to impose a set of . . . restraints on the lives of people of Indianapolis and the development of this community to a degree that borders on dictatorship. Their data is not valid, their conclusions unrealistic and their action precipitous. In true bureaucratic form, they waited until the last minute to come up with their solution so that the people affected do not have time to develop counter proposals on a sound basis, and then they insist that their extremist ideas be implemented so that they can "comply with the laws passed by Congress."

Mr. HUDNUT. Mr. Chairman, it seems to me that the point is obvious. If the bureaucracy of the Federal Government is allowed to proceed unchecked, the free enterprise system will soon be destroyed beyond re-

pair in our country, individual initiative will be forever lost, and socialism will have arrived to stay forever and ever; pure and simple. The long arm of the Government must not be allowed to grow any longer. The regulatory agencies must be reminded that they are the servants of the people, not the masters. Government must be decentralized and local initiative must be encouraged. Government must see itself as a partner with private enterprise rather than an adversary. The Federal Government must join hands with State and local government, not hamstringing them. Of course, we want and need clear air. Of course, we want to preserve the health of our people. But not at the price of individual liberty being killed by social planners. Not at the price of private business, commercial and industrial interests being high-handedly treated by brash bureaucrats, who have never worked for a profit-making institution and seem to be unaware of the severe economic dislocation their plans will entail. And not at the price of Government control of all sectors of life, both public and private.

Mr. Chairman. I hope this **section 202** stays in the bill and encourage my colleagues in the House to support it. It represents a very responsible way of repairing damage already done, and it will assure communities such as Indianapolis that they are given the opportunity to participate in the decisionmaking process regarding transportation control systems which will affect the lives and incomes of millions of citizens throughout the country.

Let me say that I support also the amendment which I understand will be offered by the distinguished gentleman from California (Mr. Leggett) to require the EPA Administrator to make a survey and report back to the Congress on the necessity of preferential bus-car-pool lane regulations. The city of Indianapolis has an excellent road network which is capable of a high-volume traffic flow. The proposed creation of exclusive express bus and carpool lanes there would lead to traffic control problems, enforcement problems, and traffic stalls which waste gasoline and create more pollution. Needless to say, I am hopeful that proposed regulation will be eliminated.

Mr. McKINNEY. Mr. Chairman, it is my sincere opinion that we face one of the most serious crises in our Nation's history. We, as a nation, are going to experience an inexorable change in our entire way of life. No one is more aware of this than a Congressman from New England.

A change in domestic policy—the regulation of the basic force in American life—energy is now past due.

I for one thank the Arab nations for bringing us to our senses early for had they not, I am sure we would have been over the barrel in 5 to 8 years.

We could not continue a great power dependent on our lifeblood from abroad.

We could not afford the dollar drain much longer. So in fact we have been luckily brought to our senses.

But how are we the constitutional settlers of domestic policy acting? We appear more interested in the Christmas recess than in energy.

But most definitely we seem most desirous of pulling a "Gulf of Tonkin" and getting the monkey off our back.

Here is where we sit today:

First. We have no facts of what the depth of the problem is or where it is—and yet we give the executive branch ultimate power when they cannot even give us facts.

Second. We allow the executive power over every aspect of American life. I suppose—if they do not like basketball, they could turn it off at night in favor of football.

Third. This bill invades the jurisdiction of many other committees without comprehensive legislation in any.

Fourth. What is a windfall profit?

Fifth. What is the shortage?

Sixth. What is the Executive going to do? They will not tell us.

Seventh. What do we do with emission standards?

In other words we legislate in complete ignorance.

We give power without limit, not knowing who will suffer or whether the administration will be evenhanded.

Do we want to impose gas rationing at the whim of the administration, or are they going to price us home.

We do not know.

Mr. Chairman—a "Gulf of Tonkin"—no, no more.

T.R. was talking to a friend who said he like young men "because they get things done." T.R. answered that is not important—what they do is important. In fact, we do not know what we are doing.

Mr. YOUNG of Illinois. Mr. Chairman, first of all I would like to commend by colleagues who serve on the Committee on Interstate and Foreign Commerce for the diligent work that they have performed with respect to the preparation of this bill. I particularly would like to commend the chairman (Mr. Staggers), for his patience in working with all the Members, with the blizzard of amendments that were offered on the bill. I would also like to commend particularly the gentleman from Florida (Mr. Rogers) for the work he did on the automobile emission section. I would also like to commend especially the gentleman from North Carolina (Mr. Broyhill) for the particular attention he has paid to certain sections of this act, including an amendment he is going to be offering which I intend to speak about.

We need this bill. This is a difficult and a complex bill. It cuts across many disciplines. It is an emergency bill. It is for an emergency purpose.

I do also agree with the purposes of this bill that the changes which are made and provided for in this bill must be effected in such a manner as to minimize the effect on the economy and to minimize the effect on the environment.

Now, during the course of markup we amended the bill as originally introduced to provide that with respect to energy conservation plans, which is probably the most important section of this bill with respect to developing energy savings in this country, we amended the bill to eliminate the provision that the Energy Administrator could adopt such plans, and they would go into effect unless Congress vetoed those plans.

An amendment was adopted, which I supported at the time, which provided that the plans would not go into effect unless and until Congress took appropriate action.

Upon reflection and upon further study, I now support an amendment which will be offered by the gentleman from North Carolina (Mr. BROYHILL) on this subject. It appears to me that because of the complexity of that energy problem. Congress will not have the time and it will not have the staff, and it will not be able to conduct the many, many hearings that are going to have to be held throughout this country, and it will not be able to do the job that can better be done by the executive branch of Government.

Mr. Chairman, I also think that since this is an emergency bill, the provisions and the plans which the Administrator will put into effect are emergency types of plans, and he should not be delayed in the institution and implementation of such plans, and, therefore, I think it is appropriate that the Administrator have the right to proceed with the adoption of plans, unless Congress vetoes them.

Now, with respect to the antitrust laws. I would like to commend the gentleman from Ohio on his very excellent dissertation about the protections from abuses that are in this bill.

First, this bill is not for the oil companies, as far as these conservation plans are concerned. These conservation plans are for the public. Further, it is not the oil companies' conservation plans that are going to be adopted under this bill; it is the Administrator's plans that are going to be adopted under this bill.

The exemption is not a broad exemption. It is a very narrow exemption to our antitrust laws.

As far as the importance of the antitrust laws is concerned, there may be an amendment offered here today that I would like to address myself to, because it came up in committee and it contained a provision that we would exempt the energy conservation plans from only section 1 of the Sherman Act. That would be highly wrong and highly fallacious, and I will explain why.

Section 1 of the Sherman Act states that any act which is in restraint of trade, any agreement which is in restraint of trade, would be unlawful unless, of course, it is a reasonable restraint.

Now, it is admitted by many of those who agree with the proposed amendment that was offered in the Commerce Committee that such an

exemption from section 1 would be a reasonable and a proper type of exemption to be put into this particular bill. They objected nevertheless to including as an exemption from the antitrust law provisions, section 2 of the Sherman Act. That to me would be a very big mistake, if this Congress were to only limit this antitrust exemption to section 1 and to not also include 2.

Why? The reason is this: Section 2 provides that it is unlawful to attempt to monopolize. Now, to attempt to monopolize involves two distinct elements of law.

It involves both a wicked act and a wicked mind. I think the Latin terms are *mens rea* and *actus rea*, "*actus rea*" meaning a wicked act, and "*mens rea*" meaning a wicked mind.

Now, in order to prove that one has a wicked mind, since intent is the main element which has to be proven under section 2, prosecutors use the acts which take place which would be circumscribed by section 1 of the Sherman Act. In other words, agreements to fix prices, agreements to allocate customers, and agreements to allocate markets are all evidence of intent to monopolize.

It might very well be an energy-saving provision to have a energy conservation plan which would allocate markets.

I also want to point out that the oil companies which are involved in connection with **section 120** of the bill are an oligopoly, according to many economists. Therefore, any act they take which would be in restraint of trade under section 1, if we leave out section 2 from the antitrust exemption, and would be in violation of section 2. So it would be meaningless to give oil companies only an exemption from section 1.

I would like to address the provisions of this bill pertaining to windfall profits. [Sec. 117.] It has recently been stated that the solution to the Middle East war lies within a riddle within a sphinx within a salami sandwich, which reminds me of the definition of windfall profits. I never heard of a satisfactory definition of windfall profits. It is just like a fair tax. A windfall profit is a profit somebody else makes and which you do not. That is what a fair tax is, a tax somebody else pays and a tax that you do not. Windfall profits are defined in terms of saying that they are anything other than a normal profit, but a normal profit is, of course, a very difficult thing to define. In this particular act it takes average profits in a certain period of time, from 1967 to 1971, as the measure. In my opinion, if we are going to deal with it, it should not be done in this act. If you want to have an excess profits tax, then put it in the Internal Revenue Code and let the Committee on Ways and Means handle it.

Mr. Chairman, I would like to close by acknowledging the excellent work done by the Subcommittee on Health and Environment on the automobile emissions section.

Mr. COLLINS of Texas. Mr. Chairman, everyone in America today agrees that the biggest domestic challenge is energy. Two days ago I overheard four TV commentators who were all perplexed at the sudden arrival of the energy shortage problems. They could not understand how this energy shortage developed.

There are two basic causes of energy shortage in this country. This energy bill does very little to correct either one of them.

Apparently, these commentators do not drive an automobile or they could have understood part of the problem. If you went 100 miles in your 1969 automobile, you would need to buy 6 gallons of gasoline to fill up the tank of your car. If you go 100 miles in your 1974 automobile, you need to buy 11 gallons to fill up your car. This is known as environmental control.

Down home, our environmentalists realize this impact and the need for moderation in environmental controls. So issue No. 1 is to roll back environmental controls for 5 years so that America can move forward for 20 years.

The other big issue requires price control solutions. They are only drilling one-half as many oil wells as they were 10 years ago. Congress cut the incentive depletion allowance and drilling has dropped tremendously. Today it costs \$94,708 to drill an oil well while 10 years ago it would have cost \$54,518 to drill a well. Yet we try to put price control on new gas discoveries. Oil companies today are making profits on the oil they discovered back in 1950 and 1940 and gradually our oil and gas reserves are being exhausted.

One expeditious way to solve the energy shortage would be to repeal the Price Control Act. The second step forward would be to suspend with a moratorium for 5 years the Pollution Control Acts.

I realize that this might create air which is not as pure as it should be. But I am concerned with this energy shortage impact and what it is going to mean on men and women losing their jobs. When a man loses his job it may cause a heart attack. His wife, in turn, may develop an ulcer. And when there is not income for the family, there will be starving children around the home. We need to think of the overall good health of America. We cannot solve pollution in this 1 year. But we can sure get this country into a depression and lose jobs everywhere from coast to coast with this energy shortage. What we need are two additional bills; one bill to repeal price control and let natural economics adjust itself in the marketplace, the second bill to place a moratorium for 5 years on pollution controls. Let us enjoy better health in America through full employment and a prosperous Nation.

I think one of the first actions that we should take, as the gentleman has mentioned in the well, is to repeal the Economic Stabilization Act through which mandatory price controls are established. I have introduced legislation, as I think probably the gentleman from Texas has

also, to repeal this Act. As the preferred alternative we should allow the marketplace to allocate our scarce resources, and get to the heart of the problem—which is not rationing shortages—but rather the need for increasing production of supplies. Only through the incentives of the marketplace can we provide the increased production so necessary to meeting the shortages we now experience.

Mr. Chairman, seemingly lost amidst the hue and cry for such drastic energy-demand-meeting measures as rationing, end-use allocation, taxes, surtaxes, and controls is the call for increased production of fuel supplies with which to meet current and projected demands.

We have removed price controls from the cement and fertilizer industries for one overriding purpose—to increase production, so why not do the same for the energy-producing industries?

Where amidst all the debate over the most effective means of allocating our available supplies is the most important and most appropriate call of all—a call for increased production of supplies? Increased production is the answer not trying to live with inadequate supplies—inadequate because there is insufficient production. Government, and the legislation arising from its legislative branch, is wandering over alternative after alternative, trying to make inadequate resources more adequate through Government regulation. Regulation cannot make an inadequate resource more adequate. Just like regulation of wages and prices failed to control the inflation for which it was intended, but rather produced such grievous misallocations in the economy as to create severe shortages in foodstuffs and other commodities, regulation of fuel resources will not, similarly, solve the problem. If we are to resolve this crisis, why not increase production; why not make supplies more available? And this can be done.

Increased production is the single best answer to this problem. It is the answer most compatible with the preservation of economic freedom without which there can be no political freedom. It is the answer most compatible with the principles of a market economy which has produced the greatest standard of living yet known to man. It is the answer which will produce the greatest number of jobs and workers' wages and promotion of the Nation's economic well-being. And, it is also the answer which will result in the greatest increase in available supplies, for Government regulation historically, no matter how well intentioned or how well conceived, has never produced commodities at rates commensurate with production spurred by the private enterprise system.

It might, then, be asked: Why has there not been an increase in production? Principally, because the market principles which would have permitted virtually unlimited increases in production have been fettered by Government policies, programs, regulations, and disincentives to production which arise therefrom. Speculation? No. Fact.

This interference with the marketplace has come in a variety of ways. It has come through the imposition of unrealistic commodity price ceilings, depriving the industries of the available, even minimal, profits from which to make necessary additional capital reinvestments for increased production. It has come through excessive tax rates and tax schemes which have resulted in the misallocation of needed capital. It has come through artificial shipping rate schedules created by agencies of Government—for example, shipping rates for virgin fuels established at lower rates for used oils capable of recycling, thereby discouraging their reuse. It has come as a result of those particular environmental controls which were excessive to real needs when weighed against the need for economic enhancement.

Increased production can be best accomplished through the removal of disincentives to production. We ought to encourage, rather than discourage, the capital formation requisite to additional exploration and development, capital formation from the little man who has carefully saved earnings from the sweat of his brow to the corporations whose business it is to produce fuels, thereby creating jobs and markets. We can increase production by more properly balancing environmental and economic interests, for some statutes and regulations ought to now be relaxed in an effort to enhance production; we need not abandon our national commitment to a cleaner environment by allowing for such short-term remedial measures. We can increase production by removing the strangling regulations under the Economic Stabilization Act of 1971, as amended, the wage and price control statute, for the policies of the Cost of Living Council have added greatly to the creation of this crisis.

An example—a very real one—of the effects of price controls on production can be seen by looking at the regulation of home heating oil. With the original imposition of controls on the economy in August of 1971, prices on home heating oil were frozen and subsequently maintained at artificially low prices. This encouraged over consumption.

The Cost of Living Council has had the good sense to remove—by exemption—the cement and fertilizer industries from the coverage of the economic stabilization—one should say, “economic dis-stabilization”—program. Why? They cited one reason in both instances: To increase production.

Why, then, can they not exempt the producers of energy sources? It would allow prices to rise to their natural levels within the free market system, an important byproduct of which is an increase in production with which to meet demands.

The distinguished Senator from Oklahoma (Mr. Bartlett) has brought to our attention the incapability of the oil companies to substantially increase drilling in search of new untapped supplies. Why?

Because drilling equipment—made from steel—is not adequately available. Why? Because the Cost of Living Council by holding down, unrealistically, the price of steel for such equipment has discouraged greatly the production of such equipment. The steel producers have not been making the equipment because they would not make any profit or even would run losses. The Senator has indicated that drilling activity, despite the crisis, has been able to expand by only 13 to 14 percent over the past year, when a full 100 percent expansion is needed to alleviate adequately the present energy crunch. And, unfortunately, even if the Cost of Living Council should seek now to rectify its errors, delivery schedules for oil well casings, tubing, drill pipes, drill collars, valves, and blowout prevention devices would mean an 18-month delay before such equipment gets to the fields.

It is not inappropriate to inquire: What assurances do we have that if the industry is deregulated as to prices that the increase in revenues will be diverted to capital improvement and not solely to profits? Again, Senator Bartlett's inquiries have produced the most concrete factual answers:

Most people agree that a free market will increase our supplies more rapidly than a controlled market—even a controlled market which provides for price increases for natural gas and crude oil.

But many wonder if the petroleum industry would invest the increased cash flow resulting from decontrol of prices into areas that will help to solve our domestic energy shortage.

Even though I have no doubts that the great majority of increased profits will be used to increase the supplies of domestic energy, I thought that the question deserved a response to clear the doubts raised by some individuals. The people and the Government have a right to be informed and need to be assured that the price of decontrol is worth it—and today I will summarize the replies of those petroleum companies and independent producers of petroleum in America to show that it will be worth it.

I asked over 400 integrated and independent companies engaged in the production of domestic oil and gas to answer the question I read earlier.

My office has received replies from 115 integrated and independent companies. Not one of those replies gave any indication that a large portion of the additional cash flow resulting from the removal of existing price controls would not be used to increase domestic energy capabilities.

On the contrary, 93 of the companies responded by saying that "virtually all or 100 percent of their increased cash flow would be so utilized." The remaining few companies, although they did not say that they would reinvest virtually all the additional cash flow, did imply that they would reinvest significant amounts such as "90 percent, a minimum of 90 percent, or a minimum of 75 percent."

It makes sense that these companies, as they have indicated to me, would continue to invest in that industry which they know best, especially when the opportunity for a reasonable rate of return is improved by price decontrol.

Mr. President, it was interesting to note that all of the 8 largest major oil companies replied to the question and 16 of the top 20 producing companies responded.

Mr. President, I ask unanimous consent to have printed in the Record a chart showing a breakdown of the 115 companies based on 1972 oil production.

The PRESIDING OFFICER (Mr. Harry F. Byrd, Jr.). Without objection it is so ordered.

The material, ordered to be printed in the Record, is as follows:

BREAKDOWN OF THE 115 COMPANIES BASED ON 1972 OIL PRODUCTION

	Number of companies responding	Total oil production (barrels per day)	Total gas production (million cubic feet per day)
1972 daily average oil production (barrels per day):			
1,000 or less.....	22	9, 430	86, 452
1,000 to 10,000.....	47	161, 071	1, 380, 121
10,000 to 55,000.....	12	352, 944	2, 281, 592
55,000 and up.....	16	6, 556, 535	28, 751, 662
Letters without production figures.....	18		
Total.....	115	7, 079, 980	32, 499, 827

Mr. BARTLETT. Mr. President, the replies received represents 7,079,980 barrels per day of crude oil and natural gas liquids and 32,499,827 million cubic feet of natural gas per day. That is 60 percent of 1972's daily average crude oil and natural gas liquids production and over 50 percent of the daily average gas production.

The small fellow—the independent producer—almost without exception said unequivocally that he would invest all additional profits back into the petroleum industry.

Common phrases used by the small producers were—

“I would expect to invest every additional dollar of cash flow generated in new domestic oil and gas exploration.”

And—

“Any additional monies received because of decontrol of above products would likewise be invested in exploration for new energy reserves.”

And—

“Any increase in our cash flow resulting from higher crude oil and gas prices would be immediately reinvested in a search for, and development of, more reserves.”

Mr. COLLINS of Texas. It is most unfortunate, in light of these facts, that the Congress is considering—instead of a return to the ageless and time-proved principles of the marketplace—the imposition of new laws, embodying new policies, the imposition of authority for new regulations, sustained with vast bureaucracies and powerbrokers.

I am opposed to rationing—or, as it is referred to in this bill, “end-use allocation”—and I have here today and on repeated occasions heretofore expressed my preference for the use of the principles of the market economy. But, if we should ever come to the point where rationing is unavoidable, a possibility if we do not increase production, I sincerely hope that the scheme which is deployed will preserve the market economy by allowing the market system, as opposed to some faraway bureaucracy, to establish the price of fuels. It is not impossible to devise a scheme, if essential to the preservation of the national economy, which allows for a basic rationing system for those whose lives and well-being rest upon the use of fuels with the market economy being retained for all other users. It would be difficult, but it is possible, and it is certainly preferable to the loss of freedom which could result from mandatory allocation or rationing systems imposed on all the people.

The soundest solution is probably the one that comes the nearest to being relatively enforceable and equitable. It should leave enough individual freedom of choice to commend public confidence and minimize damage to the economy. Whatever tax revenues would be generated

therefrom should be then channeled directly into financing alternative transportation systems and the search for new energy sources.

We have heard it said today that the reason we must go with a mandatory rationing system is the support it enjoys with the consumers—from the big buys to the little guys—as their preferences over paying higher prices. I think this sells the American public short, for its understanding of the nature of this crisis—in all its political, economic, and moral ramifications—appears, to me, to be well preceived by the consumers.

Mr. Chairman, only one thing is for certain in the debate surrounding the ever-intensifying energy crunch—that the Earth is not running out of potential sources of energy. It is, rather, simply running out of energy supplies readily available.

We can best understand—and deal with—the energy problem when we separate it into time frames within which we have to devise solutions and implement them. We have some aspects of the energy problem which must be dealt with immediately, such as getting through this winter; these are the short-term considerations. We have other aspects of the crisis which must be dealt with over the period of the next 2 to 7 years—the intermediate period. And, we have those other aspects which must be dealt with over the more extended time frame—over a long-range period. All are coextensive during these first few years.

Over the short-term period, we must reduce gasoline consumption through the use of lighter, more efficient automobiles, car pools, better vehicle operation and maintenance, and those particular auto emission devices and controls which will add to mileage, not take from it. We must improve rail and bus systems for short to moderate length interurban transportation—to provide a better balance between auto and air, and auto and rail traffic. We must, during this period of intense domestic fuel shortages, stop the exportation of any crude or refined oil which could be used domestically. We must speed the pace of nuclear power plant construction, for it takes 7 to 10 years to get such a plant “on the line.” We must implement programs to advance the commercial development of oil shale. We must resolve conflicts between environmental goals and energy resource development. We must use coal more directly for the production of heat and energy.

Over the intermediate period, we must use coal indirectly as a source of synthetic oil and gas. We must institute residential and commercial building standards to save energy used for heating, air conditioning, and lighting, and we must build accordingly. We must develop new ways in which to generate power more efficiently, controlling air pollution and energy consumption at the same time.

Over the long-range period, it is important to understand certain basic premises. There is little necessity of diminishing the total consumption of energy among developed societies, or of retarding the growth rates of developing societies, if energy sources can be developed and harnessed which are, essentially, both unlimited in supply and not productive of environmentally detrimental byproducts. All supplies of oil—when recovered, refined, and consumed—will run out at some future point in time. And, with widely varying points at which they too will run out, so too will natural gas, and coal, and all other

fossil fuels. Yet, there is no limit to solar power, as long as the Sun gives forth light; the power of falling or flowing water, as long as rivers flow and tides run; the power of wind, as long as air currents move; and, geothermal steam, as long as the Earth's inner crust remains molten. Our only limitations, at present, are in developing adequate technologies and devices with which to harness such unlimited power sources. And, the ecological consequences of their uses are much less potentially adverse than those of existing fuels and substances. By reliance on unlimited power sources, the development of a society, which depends on continued or expanded energy uses, could go forward unfettered. No developed society would be compelled to reduce, over the long run, its standard of living, and no developing society would be compelled to abandon a course of action designed to enhance that standard. Instead of acquiescing to a notion that we must reduce our standard of living by reducing our percentage of the world's energy consumption, we would be better advised to expand the levels of energy available to all the world. To do this, we must begin now to increase production.

There is another dimension to our debate on this bill and on the Energy Research and Development Administration and high seas oil port bills to be considered later this week. That dimension is the extent to which the Congress—as the maker of laws under our constitutional system—seems ready, willing, and able to surrender that law-making authority to the executive branch.

One of my colleagues has even dubbed his National Emergency Energy Act as a “Gulf of Tonkin Resolution II”—referring to a potential repeat of the speed in which Congress is willing to relinquish its authority to the Executive. His point is well made:

The deal is this: With the Nation in crisis, the legislative branch of government agrees to turn over its power to the executive branch and in return, the executive branch allows the legislative branch to wring its collective hands in exasperation after enactment.

With no specific definitions and skimpy limitations, it (the Congress) asks the President to control transportation, restrict recreation, limit the functions of commercial establishments and public services, implement rationing systems, lift the environmental provisions, increase the power of federal agencies and designate which sections of the country are economically deprived.

However muddled the precepts may have become after 196 years of storms, the balancing principle separating powers still exists and the Congress shall “make all laws” and the executive shall “take care” that they “be faithfully executed.”

Clearly, the National Emergency Energy Act gives to the executive branch the power to make law and in the area of environment to eliminate law.

This bill, if it becomes law, would usher in a virtual economic dictatorship, giving to the Executive an unparalleled peacetime control over the arteries of our economy, and I, Mr. Chairman, want no part of such an abrogation of economic and political freedom. The skill cries which we hear in this Chamber today are not dissimilar to those cries we heard for the imposition of wage and price controls—a plan which has turned out to be one of the most dismal records of failure by Government in modern times. The Congress ought to never be stampeded into a giving to the Executive of control over our very lives through regulation of our resources.

We ought to send this legislation back to committee and instruct it to come to the floor with a bill which preserves the liberty of our people and the authority of this body to make laws. If need be, we should be prepared to stay in session throughout the coming holidays, for the people's well-being is paramount to our desires to end this session.

It is hard, Mr. Chairman, to argue with that presentation of the constitutional question posed by the bill before us. No matter how well the executive does, or does not do, the task given to it and no matter how equipped the agencies are to issue guidelines, it is the Congress which must bite the proverbial bullet here. We surrendered great authority in haste once before in the swift and almost unquestioning passage of the Gulf of Tonkin Resolution. We owe it to ourselves and to our posterity to consider carefully the provisions of the bill before us, for we may not only be setting into motion an impossible scheme, but we may be surrendering the powers of this body to act in the people's behalf.

Mr. Chairman, millions of words have been printed and aired on the energy crisis. Many have tried to establish the framework within which the Nation—and the Congress—ought to address the energy crisis and means of resolving it.

Mr. Chairman, the task before us is great. We must not shrink from the meeting of that task.

Mr. WYMAN. Mr. Chairman, without belaboring ad infinitum the seriousness of the energy crunch that we are in, I would like to take this time in the general debate to address a hard look toward an answer to the question of where we can save gasoline, and hence oil, without hurting anybody.

One such area is in the field of automobile emission controls. In 90 percent of this country there is no need for automobile emissions controls from the viewpoint of either public health or environment. [Sec. 203.]

I have brought this large map of the United States into the Chamber to illustrate the rather startling fact, that in at least fifteen-sixteenths of the geographical United States there is no significant air pollution related to automobile emissions. We can take the controls off in their entirety from all cars registered in the white areas on this map before us, take them off all cars that are owned, operated, and registered to residents of these areas, without hurting anyone's health or causing them to get emphysema or suffer other adversity.

What would this accomplish? This would save upward of 300,000 barrels of oil a day. Present emissions controls impair gas mileage on the order of 17 to 20 percent. The rest is simple mathematics.

I want to explain the amendment that I shall offer at the appropriate time to this bill to do just this. The amendment will suspend automobile emission controls on autos registered in those parts of the United States indicated in white. It will provide that this suspension continues until January 1, 1977, or until the President shall declare that the petroleum shortages that exist in this country are no longer critical, whichever is later.

The amendment would permit an automobile owner who resides in these areas to take off his emission controls and thus increase his gasoline mileage on the order of 17 to 20 percent. If this is done, it is obvious that the amount of gasoline that will be saved is truly substantial. Additionally billions in costs in operation maintenance and original vehicle cost will be saved. Furthermore, the operation of these vehicles on an in-and-out basis into the areas in this country that are shown in red will not significantly adversely impact on the ambient air quality of these areas because the transient factor varies only from 1.5 to 5 percent of vehicular travel.

Now, one says, immediately, "Well, what happens if I have a car that is registered to me in, let us say, Nevada, and I want to drive into Los Angeles where there is a problem?"

The answer to that, as I have stated, is Office of Science and Technology studies showing that the movement in and the movement out of automobiles not owned by residents of the areas in red goes somewhere on the order of 1.5 to 5 percent and concludes that this would not materially, significantly, adversely impact on the ambient air quality of those areas.

If we want to do something to really help meet this gasoline shortage and this oil shortage in this country, we should end the overkill in the current Clean Air Act requirements by ending at least during this petroleum shortage emissions controls that defy both commonsense and responsibility in this country.

I yield to no one in this House as an enthusiast for environmental protection. I would not for one moment advocate suspending emissions controls solely on the basis of energy shortages. But the hard fact of the matter, Mr. Chairman, is that we overdid it a few years back, and the overdoing of it is now beginning to show and is costing this country dearly.

I want to discuss for just a moment a second amendment I will offer at the appropriate time. The amendment I will offer will amend the Clean Air Act to take the ultimately required 96-percent, pollution-free emission standards down to 90 percent. Even in Los Angeles, Calif., with its air inversion problem, emissions controls are not required at the 90-percent level. If we amend the act and effect this overkill we will eliminate the need for the catalytic converter.

I am aware of the fact that General Motors Corp. already is said to have some \$700 million invested in the process and development of a catalytic converter. However, taking an estimate of the run of automobiles in the 1975-76 time frame at approximately what it is today; namely, 10 million cars, the cost of a catalytic converter on these cars will be about \$250 a car. It may be a good deal more than that. That is \$2½ billion to be spent in this country by the owners of automobiles on something that is unnecessary to the public health or actual needs of the Nation.

Chrysler Corp. witnesses testified before Commerce Committee that—

The lead-free fuel required for catalysts will eventually cause a loss of crude oil at the nation's refineries of one million barrels of oil a day.

The so-called improved fuel economy which has been claimed for catalyst equipped cars is largely illusory. The claim for a sales weighted average improvement is little more than a statement that small cars use less gas than big

cars, and a larger percentage of small cars will be produced in 1975. The average gain per vehicle is actually on the order of 3 percent. This is easily offset by the crude oil loss of 5 to 7 percent in refining lead-free gasoline.

And Ford witnesses said:

The 1975 fuel economy with catalysts, however, is only 3 percent better than our 1974 models. Unleaded gasoline reduces the yield per barrel of crude oil. If so, we would have to conclude that the effects on our petroleum supplies from carrying over 1974 standards and meeting 1975 standards with catalysts would be equivalent.

The Dupont study of the fuel penalty due to emissions controls, completed this year, is even more devastating. This study reported that:

A 1973 car uses 9.4 percent more gas than a 1970 car, after allowances for weight differences.

1973 cars burn 17 percent more gas than uncontrolled pre-1968 cars, after allowance for weight differences.

The 1975 (now 1976) auto emissions standards are expected to produce a fuel penalty of 24 percent, as compared to pre-1968 (no controls) cars.

Mr. Chairman, these figures are dismaying in this period of petroleum shortage. They are shocking against a record of nonnecessity.

Indicative of the lack of genuine need for these gas-consuming devices in a September 1973 report from the Yale University Medical School resulting from a study of automobile emissions. This report made three major points:

1. The nation should distinguish between those pollutants which are dangerous to health and those which only affect "quality of life".

2. While certain particulates can be a threat to health to the general population, it is already known that the three controlled automotive emissions are not in this category.

3. The costs of controlling automotive emissions to the degree required by the law as now written far outweigh any expected benefits.

The final report of the Committee on the Cumulative Regulatory Effects on the costs of automotive transportation made to the Office of Science and Technology in 1972 showed conclusively that the cost in the emissions area exceeds the benefits over a decade by better than \$60 billion. It indicated that defects in the Clean Air Act will cost American consumers an unnecessary penalty of \$50 billion in the same time frame.

Mr. Chairman, this is wrong. It is harmful. It more than justifies the adoption of my second amendment. There is no sense in requiring the same emissions controls for cars everywhere in a land 90 percent of the area of which has no significant auto emissions related pollution. The fact is that the Clean Air Act standards as presently written represent a crude overkill and a bludgeon-type approach that demands the application of commonsense amendment.

It was claimed by some witnesses before the Committee on Interstate and Foreign Commerce that the catalytic converter would improve gasoline mileage by 13 percent. I want to call the attention of my colleagues to the fact that that 13 percent is 13 percent of an already overburdened 17- to 20-percent reduction in mileage caused by application of the 1974 standards now on cars. If this is to be translated into 0.13 times 0.17 to 0.20, the actual reduction of possibly 2 percent from catalytic converters still leaves at the least a 15-percent reduction

in gasoline mileage for all of the cars registered and operated by all of the people in the white area on this map, all of the people in better than 90 percent of this Nation that has no requirement in terms of need. This is foolish. It is hugely wasteful.

It is indeed a bludgeon approach in the Clean Air Act to require everybody in this country who has a car to have expensive gadgets installed on them that reduce their mileage and increase the consumption of gasoline, when in 15 or 16 of the United States there is no need for this whatsoever.

Mr. ROGERS. I know of the gentleman's concern. Of course, all of us are concerned in this energy crisis. However, I would suggest to the gentleman that he ought to look at the possibility of not trying to do away with the Clean Air Act where we are at least making some effort to clean up the air of this Nation. Rather I would hope the gentleman would look at the weight factor of automobiles which accounts—and we have the figures here since 1962—for half of the fuel economy lost. Why does he not look at the air-conditioning? Why does he not suggest we turn off our air-conditioners? That accounts for a loss of 9 to 20 percent. Automatic transmissions, 2- to 15-percent loss. That is very simple to do, and yet he only attacks the Clean Air Act, which is to clean up the air of this Nation.

I would point out to the gentleman from Florida that the automotive industry and all of us are trying to get smaller engines, lower weight in cars, and economy of efficiency. I am not trying to destroy the Clean Air Act; I am just trying to stop proponents of continuing the present extreme standards in the Clean Air Act from being such fools in causing such expense and waste in this country. If the gentleman will take the time to look at this map he will see at once that his own State of Florida has no auto emissions related air pollution problem. I cannot believe he wants to continue to impose on all of the residents of his district and State unnecessary emissions controls that reduce their gas mileage by at least a fifth and cost them hundreds of dollars more for their cars and their operation. I cannot believe this.

At the immediate present we will save 17 to 20 percent of the millions of gallons of gasoline our cars consume if we reduce and eliminate these air pollution requirements on emission controls on all but the restricted areas in the United States indicated on this map in red.

Mr. MILFORD. Mr. Chairman, I support the gentleman in the well. I congratulate him. He is absolutely correct in what he has said.

One very important fact is being overlooked. We are facing a gasoline shortage of about 25 percent. Therefore, we will also have an automatic reduction in auto emissions by 25 percent.

The complete removal of all auto air pollution devices will not cause an increase in present levels of pollution. However, by removing these devices, we will be able to do more driving on the available fuel.

Mr. ANNUNZIO. Does subsection (4)(J), found on page 55 of the report, include under the term "household moves" the situation where a soldier moves his family's personal possessions from one base to another in a trailer which may be rented or borrowed or belong to him?

Mr. STAGGERS. That is included in the bill and taken care of in the provisions of movement of persons.

Mr. ANNUNZIO. They would be supplied with gasoline; would your answer be yes?

Mr. STAGGERS. Yes; my answer would be yes.

Mr. ANNUNZIO. I thank the gentleman.

Mr. ADAMS. Mr. Chairman, I intend during the course of the amending process to offer two amendments to strike the antitrust exemptions of this bill, which I will hand to the Clerk now and which I have delivered to both the minority and majority council tables. They are entitled "Amendment by Mr. Adams to strike **section 114**" and "Amendment by Mr. Adams to strike **section 120**."

I shall also oppose the amendment that was made in order by the Committee on Rules, at the request of Mr. Brown of Ohio, and it is made in order as H.R. 11891. The bill was referred to the Committee on Post Office Civil Service, but it has been made in order in this bill and its effect would be to exempt the oil companies from the conflict of interests provisions of the Federal law.

Prior to my remarks on that, however, I would like to address a question to the chairman of the committee with regard to the particular provisions in the bill in **sections 108 and 109** that provide for local boards of balanced composition and ask him as this was debated in the committee in executive session, and I want to be quite sure that as part of that legislative history, it is now recorded, so that we are certain the intent of the House is cleared.

It is stated that the local boards shall be of balanced composition, which is in the bill in **sections 108 and 109**, means reflecting the makeup of the community as a whole, means inclusion of labor and consumer representatives on those local boards?

Mr. STAGGERS. Yes, it would, and that was the intention of the committee.

Mr. ADAMS. I thank the chairman for his comments. That was certainly my understanding and I wanted it to be part of the legislative history.

Mr. Chairman, I want to speak particularly to what has happened in this bill. I do compliment the chairman and other members of the committee for attempting to deal with a situation that certainly was not created by the Congress and which at the present time I assume most Members on this floor and those who will be voting on this bill and who are not here now, will vote in favor of so that they can say, "Yes, we tried to do something about the energy crisis."

But, I have pointed out in my separate views in the report on page 89 that the Defense Products Act has been in existence since 1950, and under that the administration could both allocate products and could control profits; that as of April 30 of this year, there was an amendment placed in the Economic Stabilization Act which provided the power in the President to allocate fuel and control prices.

There appeared before our committee Mr. Simon—who is now going to run this program—during the summer of this year. I asked him specifically the question, because at that time all the independent marketers were being cut off from petroleum supplies, and I wanted to know if they were going to obtain supplies; whether or not the administration was going to allocate products to them, and he said he did not know whether the administration would or whether they would not, so we had to wait to see whether they would do it under the powers that they had.

Finally, they did not do it, and the chairman said, "We have got to hold hearings," and we did and reported out a bill requiring allocation. Then this Congress passed the Emergency Oil Allocation Act which was not signed until the end of last month because the administration opposed it. And, do the Members know what that bill did? It was to require the administration to allocate products so that they would not put the independents out of business, but I think we were probably too late, because they opposed it and held off signing it long enough so that if one goes around looking for an independent distributor, he is not going to find many.

In that bill, it also required that there be equitable prices established on any cost of crude oil, but has there been a setting of prices? No.

We have had Mr. Shultz and Mr. Simon going on to the radio and television and saying that prices are going to go up. I think that is in violation of the equitable price provisions of the Emergency Allocation Act, which was signed 2 weeks ago.

The regulation was enacted, and I want to know why it has not been used or why prices have not been controlled.

That brings us to this bill. This bill has to be passed, because the administration still is not moving. Some earlier speakers in the well said, "Well, you know the President wants to put out energy plans, but does not want to have anything to do with rationing." If the Members will read my separate views closely, I have pointed out that the only way they are going to fairly allocate products in the United States and put a fair price on them is to ration at the gas pump and allocate among distributors who deliver other petroleum products fairly on a base year, or years, and that is the only way we are going to be able to meet the problem the gentleman from Texas (Mr. Eckhardt) mentioned.

If we have so many million barrels of oil available and so many million being demanded, then the only way we are going to get between the two on a fair basis is to say, "All right, everybody gets their share and at this price," but what has the administration required us to do in this bill?

This is where we are. It has said, "We are not going to ration. We are not going to control prices. What we are going to do is have a voluntary system," and the voluntary system has consisted of cutting off various parts of the economy. Once this bill rejected rationing, and that was done on the first day in the committee, we started on an allocation system and the bill became a Christmas tree. It had to become a Christmas tree because every special interest that had a representative in Washington, D.C.—and some of them had to ship them in from out in the country—had to come in and say, "Protect us some by putting them others in or by taking them out."

That is why the bill is cluttered with over 75 amendments. Everybody is trying to protect himself in the so-called voluntary system, so we did one thing in the bill that I think tries to protect all groups, and they run from general aviation to the plastic firms to the leather business, the ski resorts, the gasoline carts and every other kind of thing; a bill that would have taken care of a ration.

By introducing a rationing system, we will say to the public, "Here is your 10 gallons. Put it in your motorboat, your pleasure boat; drive

to the mountains; car pool; do whatever you wish to do with it, you have freedom of choice to use the limited supply however you wish."

But he does not get freedom of choice under these other plans.

If we do not do that, then, in order to get an allocation, the consumer has to fight it out at the pumps for his supply. Consumers will find stations shut down on Sundays, and this puts the recreation people out of business, or consumers are going to find that the lights are turned off at the stores and shopping centers by agreement of the big stores. We will find that the little camera shops are out of business, as well as all the other shops and small businesses. We will find that the pleasure boats are out of business because if you do not allocate gas, the marinas are going to be shut down.

As far as general aviation is concerned, they will say, "You fellows are going to go down to 50 percent."

This is what I refer to. Now, when you have a man who is too fat and he is consuming too much energy, you put him on a diet. Then you say, "You have 1 year to behave yourself," and then at the end of 1 year you just take him off the ration and let him go; or if not, then you put him back on a diet again.

The other alternative is to cut off a leg or cut off an arm or cut off a foot and hope that is going to help.

In the bill is what the committee put in with the Eckhardt amendment that the gentleman from North Carolina (Mr. Broyhill) now intends to take out. We said in that amendment, "OK, Mr. President, you cannot come up with any more plans that may amount to cutting off an arm, a leg, of this economy or anything else unless you come back to Congress for approval."

Mr. Chairman, I hope we will have what is in the bill, and that the amendment that will be offered by the gentleman from North Carolina (Mr. Broyhill) will be defeated.

If we go into a petroleum allocation system and put in antitrust exemptions and conflict of interest exemptions we are right in there with the administration and the oil companies who got us into this crisis and this amendment proposes they will be running the program to get us out.

Mr. KEMP. Mr. Chairman, let me just ask one quick question.

Does the gentlemen plan to increase supply, and increase production?

Mr. ADAMS. Absolutely.

First, we will cut off oil exports.

The second thing we will do is that we will have to make a complete study of oil imports; the third thing is that we will have to study both the electrification of railroads and the utilities; and the fourth thing we will do in that area is to put on an excess profits tax which I hope will come out of the Congress and will force these companies to take their profits and put them back into exploration for oil resources.

Mr. MARTIN of North Carolina. Mr. Chairman, I have a modest proposal. In the midst of a seriously difficult legislative effort to conserve energy and equitably distribute scarce fuel supplies, all Members of the House have been barraged with respects and demands of special consumer interests ranging from "A"—for antique aeroplane enthusiasts—to "Z"—for Zoological Gardens—with even a curious "L"—for

large American gas guzzlers. All such entreaties have been pitched as representing a need for priority allocation. There is no way this chaotic situation can be fairly administered even were a modern Solomon to come forth to make judgments.

If we rely on price or taxation alone, the sudden jump in costs will unfairly price lower income consumers out of the market. On the other hand, to rely solely upon a rationing mechanism with market prices frozen will result in both a bureaucratic monstrosity and black market profiteering. This would be especially so if the guiding policy was to provide special treatment in response to the assorted pleas for favored priority.

For the immediate future, the only thing to do with the shortage is to share it.

Instead of trying to set up special categories for extra rationing stamps, instead of "freezing out" the poor—the best approach would be a combination system, which would provide a basic ration to each consumer—with special treatment only for police, firemen, and medical needs—and with an option for others to purchase at a premium, perhaps paying an additional tax surcharge for any available excess over the aggregate basic ration. In this way, everyone would get an essential share with a simple nondiscriminatory administrative framework. Extra shares for special needs or wants would be available only at a higher net price. Each consumer would then be able to exercise personal judgments to decide whether the higher net price for the extra share would be justified.

The salesman, the hobbyist, the sportsman, the tourist, the large car owner, the employee residing a long distance from work—each would have to determine whether to pay the higher price or to ride the bus, join a car pool, use a telephone, or otherwise reduce consumption as an alternative to going above the basic ration.

Such a system would be nondiscriminatory. It would be equitable. It would share the shortage. And it would let economic considerations comparable to the free market determine special allocations.

Mr. ANDREWS of North Dakota. Mr. Chairman, I would like to take this time to ask a question of the Chairman of the Whole Committee, the gentleman from West Virginia (Mr. Staggers).

As the gentleman knows, the two of us have had a number of discussions about the importance of using coal in firing electric generating plants.

In my State we do have this. We have a surplus of electricity, and we are trying to get our people to shift over and use some electricity, for heating in both industries and households, rather than to use oil which is in extremely short supply.

As I understand it, the committee's study of this question disclosed that this was indeed in the Nation's interest, where abundant coal was being used for generation, did it not? As I understand it the committee also felt that no excess usage tax should be levied on such coal-generated electricity.

Mr. STAGGERS. Mr. Chairman, in answer to the gentleman's question, we found it would be helpful, and I believe in most areas where there is an abundance of electricity, that is true.

Mr. ANDREWS of North Dakota. In other words, then, what our North Dakota energy people are doing is in the best interest. Any di-

rection in this bill to the Federal energy regulators is to emphasize the use of electricity as a substitute for oil and for natural gas in heating where the electricity is abundant and generated from coal. And that is in the Nation's best interest; is that not true?

Mr. STAGGERS. The terminology is "shall" in the bill. The gentleman has stated the intentions of the committee.

Mr. KUYKENDALL. Mr. Chairman, it has been quite interesting to hear several members of this committee so piously say, "It is not our fault." Whose fault was it that we sat on the legislation that did nothing but widen the right of way for the Alaskan pipeline for well over a year without passing it? Whose fault is it that we delayed any development of offshore drilling for month after month after month and finally had to wait until we had the Middle East crisis arise before they got back onto this very important matter? Whose fault is it that we sat and let lie either in court or in committee through actions too numerous to think of important legislation like strip mining or the gasification of coal or the development of the shale deposits in the Western part of this country? Whose fault is it that we went for years with every single site for a dam for hydroelectric power being blocked by the environmentalists until we quit even seeking those sites any more? Whose fault is it that just in these last few days a nuclear powerplant site was turned down by a major city on the West Coast? I wish they could get as cold as Boston this winter; I do not think they would turn it down then.

Mr. Chairman, in this situation we are all at fault—the administration, the courts and this Congress—and believe me there is enough fault to go around.

However, Mr. Chairman, I deeply resent the idea that we who are a major part of the cause sit up here and offer such pious cures. It is just like a person who smokes too much, does not take care of himself, gets emphysema and then suddenly blames the doctor for his disease.

Mr. WHITTEN. Mr. Chairman, I appreciate the time.

I am chairman of the committee which has been holding hearings each year for the last 3 or 4 years on some of these actions that we unthinkingly and hurriedly passed through the Congress largely under the sponsorship of my good friend from West Virginia (Mr. Staggers) and the gentleman from Florida (Mr. Rogers).

I am glad to see my friend from West Virginia (Mr. Staggers), and my friend from Florida (Mr. Rogers), now trying to undo some of the things that have occurred in some hasty actions they have taken in the first instance. I can understand their desire to be in on this hasty action here.

Mr. Chairman, I subscribe to the remarks made by my colleague from Ohio (Mr. Latta) who spoke on the rule, and with my friend from New Hampshire (Mr. Wyman). The bill before us is much less than an objective, informed, well-prepared effort to meet a very serious problem. It could well make matters worse. It needs to go back to the committee for further study, for additional information before we go off "half-cocked" again.

Mr. Chairman, the Congress has passed air laws, water laws, solid waste laws, noise laws, and almost all kinds of laws restricting the American people, without knowledge of their effect or probable effect. I am sorry to see some of the ill effects of such laws come home to roost.

I am glad to see the gentleman from West Virginia (Mr. Staggers) and the gentleman from Florida (Mr. Rogers), under whose sponsorship many of these acts were passed, realize that the American people have had all they can stand in some respects—for a number of those laws call for specific actions, by a given date, many times calling for new inventions or discoveries if they are to be met. Some American industry has been brought to a standstill, food costs have been increased and dangerous substitutes have been forced into use because the safe products have been prohibited. Air pollution has increased, gasoline use per mile is greater, and expensive safety devices are dangerous. Mr. Chairman, for several years now, I have presided over the Appropriations Subcommittee hearings for the Environmental Protection Agency and its operations. It is quite evident from the testimony that the Congress went overboard under the leadership of my friends. Now their efforts here, commendable as they may be, will set up another dictator, another czar, with more power than a good man would want or a bad man should have. How can any business or any small investor in any company invest in productive plants to meet the needs of the consumer, when his plant may be closed down at any time? How can a food processor put up his money, when he may have his production taken and destroyed? How can we maintain our economy, our standard of life, our health, with all these people having so much power?

Mr. Chairman, I read excerpts from our report this year, the terms of which we carried out in the law, providing funds for Agriculture, the Environmental and Consumer Protection and other agencies:

I read:

RESEARCH STUDIES

The Committee recommends \$715,000 for research studies, the full amount of the budget request. This year, as was the case last year, the Council on Environmental Quality was unable other than in very general terms to tell the Committee how they planned to use the requested research funds. Therefore, as part of their fiscal year 1974 research studies program, the Committee directs the council on Environmental Quality to perform the following studies:

The impact of exports of basic raw materials (such as timber, coal, ores or metals and scrap iron) on domestic prices and the competitive position of American industry.

The economic impact on American consumers of actions taken by the government to restrict or ban certain chemicals.

The cost/benefit implications of automobile emission control standards.

The impact of environmental standards and regulations on domestic energy consumption, including increased dependence on foreign sources.

The extent to which American industry is moving to foreign countries because of environmental considerations, and the extent to which American agriculture and food processing are moving to Mexico and other foreign countries.

The hearing record this year shows strong evidence that actions by the Environmental Protection Agency in carrying out these laws have contributed to the energy crisis, have increased the damage from floods because of the delay of flood and soil conservation projects, have increased the cost of production of food thereby contributing to higher consumer prices, and have greatly increased the danger to human health by banning DDT, which according to testimony has never injured a human being. In addition, actions by the Agency have placed American industry and American agriculture at a competitive disadvantage both at home and abroad.

ENERGY CRISIS

The Committee is convinced that the Environmental Protection Agency has played a major role in the current energy crisis. The approval by the Agency

of overly restrictive State plans, which call for the meeting of primary and secondary ambient air standards at the same time, has resulted in the need for industry to convert from coal to low sulfur fuels. This increased requirement for oil and gas has been a major contributor to our current fuel problems.

In addition, the automobile emission control standards imposed by the Agency have greatly increased the requirements for gasoline, which is also in short supply and will probably require rationing.

The energy crisis has major implications with regard to our country's national security, foreign policy and balance of trade. These implications were not considered by the Agency in setting the standards and approving the plans that led to the problem. The potential impact on the economic and social well-being of this Nation of actions by the Agency is so great that it is absolutely essential that the Agency be required to consider the impact of their actions.

AUTOMOBILE PERFORMANCE

Emission control standards issued by the Agency, at the direction of the Congress have created serious problems for the American consumer. By setting deadlines that called for the development of new technology, the automobile companies, according to testimony before the Committee, were forced to proceed with the development of the costly catalytic exhaust converters.

Had sufficient time been allotted to meet the standards, then the automobile companies could have devoted their research funds to alternative types of clean burning engines. Instead, deadlines were set that did not provide sufficient time for development of alternative types of engines and the American consumer has ended up with an automobile that costs significantly more to buy, significantly more to maintain, will provide poor fuel economy, with a reduction in performance.

The Committee recommends an increase of \$2,000,000 for research on alternative types of clean burning engines so that the Agency can accelerate this important program.

UNSUPPORTABLE PRIORITIES

A decision that a chemical must be banned because it "may" or "could," or stating it another way, "may not" or "could not" be a threat to wildlife and replacing it with a chemical that "is" dangerous to humans would seem to represent a clearly unsupportable set of priorities.

The Committee calls for a complete and thorough review based on scientific evidence of the decision banning DDT, taking into consideration all the costs and benefits and the importance of protecting the Nation's supply of food and fiber. The need for this review is amplified by a recent statement by the President of the National Academy of Sciences concerning the testimony at the DDT hearing:

Two-thirds of what I read I can only call trash; it was not science.

The Committee recommends adding \$5 million to the bill for the testing of substitute chemicals. By providing this money the Committee will expect the Agency to avoid taking actions based on insufficient knowledge like they have done in the past.

ARBITRARY DEADLINES

The Committee is extremely concerned about the proliferation of legislation being passed by the Congress which places arbitrary deadlines on the Environmental Protection Agency. Some of these deadlines have even gone so far as to require an invention or the development of new technology by a given date.

Testimony before the Committee indicates that the Water Pollution Control Act Amendments of 1972 impose over 40 deadlines on the Agency. The Federal Environmental Pesticide Control Act of 1972 impose additional deadlines, as does the Noise Control Act. In addition, the Solid Waste Disposal Act and the Clean Air Act also contain numerous deadlines.

In many cases, these legislative deadlines have been imposed upon the Agency after passage of the annual appropriation bill. Since the deadlines are mandated in the law, the Agency must often use resources from other high-priority programs to comply with the law. This was the case recently when the Agency proposed to transfer \$6 million from the Solid Waste Program and \$3.5 million from the Great Lakes Program to comply with deadlines imposed by the Federal

Water Pollution Control Act and the Noise Control Act. The Committee directed the Agency not to transfer funds from these high-priority programs and recommended instead a supplemental appropriation to meet these new legislative mandates.

The Committee is convinced that many of these arbitrary deadlines are forcing the Agency to frequently make unsound decisions or to take ill-conceived actions. The use of deadlines in statutes or regulations may help to encourage a development, but the use of deadlines to attempt to force new inventions or new discoveries would appear to be impractical. The Committee is convinced that the excessive use of deadlines results in the classical situation of "haste makes waste."

Therefore, the Committee has recommended language in the bill providing that funds may not be transferred to meet deadlines. During fiscal year 1974 if legislation is passed calling for additional deadlines, then the Agency will be required to seek a supplemental appropriation. This technique will preclude the transfer of funds and people from high-priority programs merely to meet a deadline with no consideration of the priority of the action called for by the deadline.

STUDY OF ENVIRONMENTAL PROGRAMS

Because of all the problems discussed above, the Committee recommends an appropriation of \$5,000,000 for a complete and thorough review of the programs of the Environmental Protection Agency. The studies shall be conducted under contract with the National Academy of Sciences which has a reputation of technical competence and complete objectivity, and shall include, but not be limited to:

(1) The estimated cost of pollution abatement activities over the next decade and the benefits to be derived versus the cost. (If we are to spend \$387 billion over the next decade, as estimated by EPA, how can we get the maximum pollution control for our money?);

(2) The degree to which environmental regulations have contributed or will contribute to the current and the long-term energy crisis;

(3) The effect of emission control standards on the cost and performance of automobiles, including the cost benefit implications of present standards;

(4) The benefits and hazards to humans of agricultural and home use chemicals, such as pesticides, herbicides, rodenticides and fertilizers; and the effect on food and fiber production and the protection of human health to the inability to use those chemicals now banned or restricted; and

(5) The utilization of scientific and technical personnel and the identification of policy level positions that should be staffed with scientific or technical personnel.

Mr. WHITTEN. Mr. Chairman, I believe I have as fine a record on protecting and developing our environment as any one. In the book I wrote, published in 1966 "That We May Live," I called for the protection of the environment, pointing out that to do the cleaning up job on pollution, we must call on industry, the Federal, State, and city government. We need financing and regulations. In the meantime we must maintain a sense of balance so that we do not tear up more than we correct. We must keep our industry going.

Mr. Chairman, the bill before us would add one more dictator where we have one to many now. We need this committee to go back and reconsider and protect the rights of the citizens far beyond leaving them to the whims of an unknown subordinate of a well known administrator, who could not handle the job whoever he may be or how hard he tried.

Mr. PARRIS. Mr. Chairman, although I am, as a member of the Energy Subcommittee, reasonably informed and genuinely concerned about the need to conserve and allocate our available petroleum supplies during this period of shortage for the benefit of all parts of our Nation and our economy, I cannot, in good conscience, support the

adoption of the Emergency Energy Act, H.R. 11450. The enactment of this bill would be a prime example of the cure being worse than the illness.

The legislation is objectionable for a number of reasons, some of the principal considerations being as follows: It would give the President of the United States virtually dictatorial powers over the economy of the Nation; it constitutes the delegation of the authority and responsibility of the Congress of the United States to the executive branch in a period when the influence of the Congress in the solution of the pressing issues of the day is at a new low, and there are frequent cries by Members to regain the prerogatives and proper congressional authority envisioned by the framers of the Constitution; finally, this legislation will simply not provide acceptable solutions to the so-called energy crisis. Even if it would, it would be unacceptable because of its excesses.

Although the final version of the bill will undoubtedly contain a number of amendments, as originally introduced and as originally considered, this bill would, to paraphrase a recent editorial from a newspaper in my district, direct the President to establish a national program to conserve resources "through mandatory and voluntary rationing." Within 2 weeks of the bill's enactment, the President shall "Promulgate requirements for emergency energy conservation and contingency programs to be developed by each State and major metropolitan government."

The President is granted life and death powers over the fuels used by businesses, public services, and individuals. He is directed to fix priorities on fuel consumption. He is given authority over "transport control." He can force oil fields and refineries to produce at a quantity desired by the administration. He can regulate commercial use of fuel, and even direct companies to use only certain kinds of energy.

The president can implement measures which shall include, but are not limited to restrictions on the use of "fuel or energy for nonessential uses." The phrase "nonessential uses" is so loosely defined that the President can apply it to almost anything.

The President can bar "all advertising encouraging increased energy consumption"; for example, a ban on advertising tourism, toasters, electric dishwashers, television sets, garbage disposal units and so on. He can, as well, place "limitations on energy consumption of commercial establishments and public services such as schools."

In addition, the bill calls for "prompt action by the executive branch" to deal with "severe economic dislocations, hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting and curtailment of vital public services, including the transportation of food and other essential goods."

Couple all those powers with those already held by the President to fix prices and wages and it is obvious that, with the stroke of a pen, the Chief Executive and his agents can drastically alter the personal and business life of every American. In fact, the administration will have far more economic—and, hence, political—power than Hitler held over Nazi Germany.

At the time of final adoption, the House version of this legislation will most probably provide that these awesome powers can and will be

delegated to an appointed "administrator" for purposes of implementation. Transfer of this power to a bureaucracy would be even worse than that originally proposed.

It is inconceivable to me that a majority of this House would, in an over-reaction to the hysteria of the moment, fail to see or remove the ominous features of this bill if it is to be adopted, or better still, would not reject this legislation altogether and exert its responsibilities in various and specific programs in dealing with petroleum and other fuel shortages and the energy gap generally.

To adopt this legislation in its present form would permit, by executive action, the virtual elimination of the individual rights of Americans to live and function as free citizens under the free enterprise system which has made this Nation unparalleled in the history of the world.

I cannot, in good conscience, support such an action, and will vote against this legislation. It is my fervent hope that a majority of my colleagues will do likewise.

MR. J. WILLIAM STANTON. Mr. Chairman, I appreciate the gentleman yielding me this time.

Mr. Chairman, I take this time to ask the chairman of the full committee a question. As the chairman knows, petroleum coke is all that remains after the crude oil has been completely refined. The product is a waste product subsequent to the refinery process. My question is: I want to sure that the definition on page 4, line 16 of H.R. 11450, that under that definition, petroleum coke would not be included?

MR. STAGGERS. If the gentleman will yield, that is true, that it is not included in this definition. This is a waste product of the refining process as I understand it.

MR. J. WILLIAM STANTON. That is right.

MR. STAGGERS. And it is not defined to be a refined petroleum product, as that term is used in this act.

MR. J. WILLIAM STANTON. That is correct.

MR. STAGGERS. It is not included.

MR. J. WILLIAM STANTON. I thank the gentleman very much for his response.

MR. BUTLER. Mr. Chairman, if I may have the attention of the chairman, the gentleman from West Virginia (Mr. Staggers) I would like to propound a question to the gentleman.

Mr. Chairman, may I have the attention of the gentleman from West Virginia, the chairman of the committee. I should like to propound a question to him.

I am interested in the alternative to gasoline rationing and the limitation of fuel consumption now in use in the state of Israel. Under this plan, each motor vehicle may be used only 6 days a week. The single day each week of nonuse is selected by the owner of the vehicle and identified by an appropriate and distinctive windshield sticker.

We are assured that the data processing equipment of all States in this Nation would make the appropriate recordkeeping of such a system in our country very simple. I would like the chairman's assurance that the proposed legislation is sufficiently flexible to permit regulations imposing this alternative to rationing, if the Administrator be so advised.

Mr. STAGGERS. That would be my interpretation.

Mr. BUTLER. Another question, if I may: If such a plan were recommended by the Administrator, would it have to come back to the Congress for approval under this proposed legislation?

Mr. STAGGERS. No, it would not. This would come under section 103.

Mr. BUTLER. I thank the gentleman.

Mr. SARASIN. I should like to compliment the committee on the fact that under section 123 the Administrator has the authority, under the act, by rule to restrict the export of various products, including petrochemical feed stocks. I have been very much involved in this part of the shortage, and in my district alone it directly affects some 11,000 jobs, and throughout the Nation approximately 1.8 million jobs will be lost with simply a 15-percent reduction in petrochemical production.

I would point out, though, that I do not believe that this bill as it now stands goes far enough. I think that some of the language that is employed in title V of the bill as it came from the Senate should have been enacted in this bill, and I am referring to section 501 (a) of the Senate bill. That section allows the President to grant to the States the necessary funds to keep unemployment compensation benefits going for those people who need them, who have exhausted their own benefits or, who for other reasons are not eligible for unemployment benefits and yet have lost their jobs as a direct result of the energy shortage and the conditions that are imposed under this act.

I think it is absolutely essential, first of all, to require that the States utilize their own resources, but then to face up to the fact that the Federal Government has an obligation here, and that the Federal Government should respond to that obligation by allowing some Federal assistance to the States to allow them to continue on with unemployment compensation benefits to those people who are going to be directly affected by many of the conditions contained in this bill itself.

Mr. NELSEN. For purposes of clarification, I notice the date in the Staggers amendment in the bill dealing with coal is of 1980 as the outside date that the relaxation of use of alternate fuels is permitted. The thing that concerns me is that, for example, my good friend Andy Freeman builds his powerplant on the coal fields of North Dakota. Is it the intention that in the year 1980, if the ambient air quality is still good and not damaged, he will then be permitted to continue the use of coal after the year 1980?

Mr. STAGGERS. I would say yes, but he would have to meet the requirements.

Mr. NELSEN. That is perfectly all right. I thank the gentleman for yielding.

Mr. MYERS. Mr. Chairman, along the same line, is industry likely to make a huge investment for a coal generating station if it will last such a short time? It will be 2 or 3 years for the constructing of it and then possibly it will get operating only in 4 years. Is that going to make it possible to increase the generation of electricity with the standards reaching only to 1980? Would it not be more useful to go maybe another 10 years to let the investors have a reasonable assurance they will be able to recapture their investment?

Mr. STAGGERS. We are talking about those plants which are already available to enable them to convert right away.

Mr. MYERS. If we do it, it would include any new industry coming on the line.

Mr. STAGGERS. It says that wherever possible they shall be able to build their plants so that they can use coal too.

Mr. MYERS. Mr. Chairman, if the gentleman will yield further, is there any place in this bill to accommodate the coal burning electric generating stations that might be built in the event we give them some assurances of recapturing their investments? I do not think we are going to be able to generate the electricity which is needed today unless we do encourage coal burning generators.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, I might say to the gentleman that on line mine mouth plants are visible, they are those that were built right on the coal mine. What the standards do say is that they must meet certain standards. There are types of plants that can meet the present standards. What we are saying is that they can go ahead and build this type plant until 1979 and as long as the ambient air quality in the area is met, perhaps some type of alternate or intermittent control would be all right, but after that time some continuous-type control would have to be on that plant, and the people in the industry know that at the present time, and they have the understanding if they enter into a plant such as this. The continuous control type of technology will last 40 or 50 years, right along with the life of the plant.

Mr. MYERS. Mr. Chairman, if the gentleman will yield for one further observation, then it is the opinion of this committee that industry has the assurance from this committee?

Mr. Chairman, it is not clear in my mind and I hate to belabor this point but the committee does feel that the electric companies of this country will build coal-fired generating stations that will be needed now and in the very near future under existing and proposed law. Is that correct?

Mr. STAGGERS. That is correct. The gentleman asked about it and they can get it on their charging for electricity. This will be allowed, I believe.

Mr. ECKHARDT. As I understand it the right to continue to buy coal until 1980 as long as up-to-date equipment is used is contained in **section 106**, which as I understand it deals only with those plants which are ordered by the Administrator under the present act to convert to coal because they have the ready ability to do so. Does the gentleman understand the matter in another way?

Mr. NELSEN. It is my understanding that under the terms of the bill the EPA may permit alternate sources of fuel supply to generate electricity. This could be gasified coal or flotation process or cleaning of coal, providing however that the total ambient air quality must remain at a level that will be established.

The thing that bothers me some is this, that if a plant is going to be built on a coal bed, it will take several years to build it. Assuming that the plant has been built on the coal beds of North Dakota and the plant is then in operation in the year 1980 and the ambient air qualities are met, I do not believe it is the intention of the committee to say that in 1980 we have to use petroleum products, providing they meet the ambient air quality.

Mr. HOLIFIELD. Mr. Chairman, I rise in support of H.R. 11450 the bill that the distinguished gentleman from West Virginia has brought to the floor. He has worked on this bill night and day. While he said himself that it is not a perfect bill, it is a good bill in relation to the intent and the purpose that we have at this time of fighting this energy crisis and winning, and thereby making ourselves independent of Middle East oil.

Now, as it happens in the closing days of Congress and as it has happened in other days of Congress, sometimes there are overlapping jurisdictions.

About 2 weeks ago the Speaker and our now Vice President, the gentleman from Michigan (Mr. Ford), the gentleman from New York (Mr. Horton), myself, and the gentleman from California (Mr. Hosmer), and the gentleman from North Carolina (Mr. Broyhill), were called down to the Administration for a conference. We were asked if we would take over the task of setting up the Federal Energy Administration. The administration had ready some charts and information which they made available to us and they asked the Committee on Government Operations to take on this task, as a reorganization was needed.

Now, during the discussion of the bill which we have before us, an amendment was offered by the gentleman from California (Mr. Moss), in harmony with the draft that was presented that morning to set up a Federal Energy Administration and the amendment was agreed to, which would set up a Federal Energy Administration and an Administrator. Now, that is just about as far as the amendment went. The Moss amendment did not provide the full treatment for the entity which his amendment created.

In the meantime, the House Committee on Government Operations began holding hearings on the basic reorganization and the basic organization of the Federal Energy Administration. We continued to hold hearings in the Committee on Government Operations.

I brought this to the attention of the gentleman from West Virginia. We agreed that the joint action of our two committees did not present an insoluble problem.

In the report which we have before us on page 27 there occurs this language; this is in the report, page 27, of the Committee on Interstate and Foreign Commerce speaking:

In addition to the powers under the Emergency Petroleum Allocation Act of 1973 and as may be authorized under this Act, the President has proposed to transfer other functions of the Executive Department to the Federal Energy Administration so as to consolidate energy related activities. This the Committee has not attempted to do. It is understood that some of these proposed transfers, such as the transfer from the Department of Interior of its Office of Oil and Gas and the Outer Continental Shelf authority, require legislative approval. An appropriate bill has been submitted to the Congress and will be considered by the Government Operations Committees of the House and Senate. The Committee does not believe that the action which it has taken under this Act in any way impairs studied consideration of these proposals by the Government Operations Committee. Indeed, charts of organization of the Federal Energy Administration confirm that the Committee's proposal to act now to place the mandatory allocation program and the authority granted under this Act in an independent Federal Energy Administration is entirely consistent with the President's Executive Order and the proposed legislation now under consideration by the Government Operation's Committee.

Mr. HOLIFIELD. Now, I can say that our Committee on Government Operations has been working sometimes until 10 o'clock at night. We have reported out of the subcommittee to the full committee a bill which will put meat on what is a skeleton arrangement or a very sparse arrangement in **section 104** of H.R. 11450. The language of the Moss amendment setting up a Federal Energy Administration and a Federal Administrator, I understand was the basis of **section 104**.

Now, we have given a great deal of time to the problem of establishing by detailed legislation the Federal Energy Administration with its officers, structural organization, its powers, duties and responsibilities. We believe that H.R. 11793 accomplishes that objective.

The bill, H.R. 11793, will be passed out of the full Government Operations Committee, in my opinion, on Friday morning. Now, H.R. 11793 is a complement to H.R. 11450 that is before us today. As to whether the Speaker will schedule it for action now or in January is unknown to me at this time.

Let me emphasize again that I am in support of H.R. 11450 the Staggers bill. It is an operational bill, a bill of broad authority, but it needs an agency, a centralized agency. That agency has been created by Executive order and Mr. Simons and Mr. Sawhill have been put at the head of it until a statutory basis is established. H.R. 11793 will be the statutory authority for a complete organizational structure of the proposed Federal Energy Administration, when and if it becomes law.

Therefore, Mr. Chairman, **section 104** of H.R. 11450 will be complemented by the full study contained in H.R. 11793, on the organizational structure which is really necessary, and which the chairman agrees is necessary to carry out the overall direction of the energy problem, which is contained in the Staggers bill.

Therefore, I support this bill and I will await the action of the Congress on H.R. 11793, the Federal Energy Administration, the bill which the administration has also requested this Congress to pass before we adjourn, if possible.

Mr. MARAZITI. Mr. Chairman, one of the important sections of this bill is **section 121**, which calls upon the Secretary of the Interior and Secretary of Commerce to provide a study and report on exports of petroleum products and other energy resources of the United States. It calls for a report within 90 days and a recommendation on legislation.

I would have hoped that the time period would have been limited to a shorter period, but I hope that the report is made quickly and that Congress acts at once.

We have exported gasoline and natural gas in large quantities from the United States. We have exported heating oil to the tune of 1-500,000 barrels in 1973 up to now. That is 3 times the amount that was exported in 1972. The total value of the products is over \$400 million.

Mr. Chairman, today we have before us a bill of the utmost importance to the Nation. The Energy Emergency Act gives our President a framework within which he can work to meet the Nation's fuel needs in the face of growing shortages.

I like the fact that this bill addresses itself to our existing environmental commitments, and the impact of energy shortages on employ-

ment. I also like the fact that **section 121** of the bill directs the Secretary of the Interior and the Secretary of Commerce to prepare a comprehensive report of U.S. exports of petroleum products and other energy shortages.

It is my feeling that when compiled, this report will prove that we need legislation to stop the export of domestically produced crude oil and oil products until our own energy needs have been satisfied. I have introduced legislation which would do this, and encourage my colleagues to consider a similar move.

From the information I was able to gather on this subject, we have exported \$317,460,319 worth of petroleum and petroleum products from January through August of this year. This information came from the U.S. Census Bureau.

In just the major classes of products alone for such things as aviation fuel, gasoline, propane, heating oil, lube greases, and similar products we exported 18,288,119 barrels of these refined products during this same period.

Mr. Chairman, we use about 17 million barrels of oil per day at current levels here in the United States. As you know available energy is the basis of our ability to grow and, therefore, our economy. A shortage of energy will undoubtedly mean curtailed production, and a loss of jobs for many Americans.

I feel it is preposterous to permit the export of domestic oil products to foreign nations when we face such serious energy shortages here at home. A 17-percent shortfall is predicted for this winter alone.

For the increased profit of a selfish few companies by allowing domestic oil and oil products exports to continue we are causing increased hardships for American labor, to businesses and industry, and the consumer in general.

Our past track record is not too good. We exported lumber to Japan, and it drove up the price of lumber here at home. We sold wheat to Russia and it inflated the cost of food for the American housewife. Now we are faced with a serious energy shortage, a possible recession higher inflation levels, and we still are exporting domestically produced crude oil and oil products abroad.

Mr. Chairman, the report specified in **section 121** is due to be presented to the Congress 90 days after the enactment of this legislation. I trust that speedy action by the Congress will be forthcoming to halt U.S. oil exports once this information has been made available to the appropriate committees.

Mr. TOWELL of Nevada. Mr. Chairman, this piece of legislation, perhaps the most important debated in this Chamber this session, is so lacking in direction and content that I—and I hope many of my colleagues—am giving serious consideration to voting against it.

While I am fully cognizant of the emergency status of this bill, it is difficult to understand why such a major bill should be disseminated to the Members just this morning for study and consideration.

Once again we find ourselves faced with legislation that simply hands over to the administration the authority to do whatever it believes is necessary. There is no opportunity for input from Congress other than to vote "no" if we do not like the administration's plans or, most likely, just complain about it when we find the administration's action unpalatable.

One of the few things this legislation actually does is authorize the establishment of a Federal Energy Administration. Here, finally, we have authorization for much-needed long-term research into such essential energy sources as solar power, oil shale, and geothermal steam—something I advocated several months ago.

I am concerned, however, that this bill does not do enough to immediately combat the shortage of energy itself.

Just yesterday the Federal Energy Office announced that the voluntary programs already implemented, as well as those controls the President already has available, have resulted in a reduction of nearly 50 percent of the anticipated daily shortage of petroleum. And today, the same office announced further proposals to eliminate the rest of the anticipated shortage—including a gasoline output cutback of 15 percent at the refinery level. With this kind of action downtown, one quietly wonders just what it is that we are all doing here today.

Nevertheless, I hasten to point out to my colleagues that in my State, fully two-thirds of the work force is directly involved in tourism. Yet this legislation makes absolutely no direct provision for consideration of the economic impact these cutbacks place on States such as Nevada.

One of the most serious provisions missing from the final draft that we are considering here today—and I am told it will not fit into this bill because we are not actually doing anything in the way of conserving energy—is that by which State governments can actively participate in energy conservation planning and implementation. This bill gives no consideration to essential industries that weigh heavily on the economy of certain areas best known at the State level.

Those of us from States that anticipate extreme economic hardship from such anticipated proposals as Sunday closing, rationing, the 50-mile-per-hour speed limit, have no recourse other than to take our case down Pennsylvania Avenue and hope for the best.

Responsible legislation which provides individual areas to accomplish their own energy conservation within wide guidelines is essential.

Unless this legislation is suitably amended, I urge my colleagues to join with me in sending this bill back to committee and ordering out some responsive, effective proposals.

Mr. ECKHARDT. Mr. Chairman, I rise to ask the chairman of the full committee a question with respect to **section 106**, having to do with coal conservation and allocation.

As I understand it, Mr. Chairman, this extension of time during which the user of coal, if he uses the most modern equipment, is guaranteed a time until 1980, is limited, as I understand it, to those plants which are under the authority of that section commanded by the administrator to alter from other fuels to coal.

Mr. STAGGERS. Mr. Chairman, that is true.

Mr. ECKHARDT. Mr. Chairman, I understand, too, that if a plant is using coal and has not converted under an order, it would be required to operate on the same basis as a plant running on fuel oil or any other fuel?

Mr. STAGGERS. That is as I understand it. The gentleman is correct.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman very much for yielding me this time, recognizing the shortness of time available.

I do wish to compliment the chairman of the committee and the members of the committee for bringing to us this emergency energy bill, which I am sure will be extremely important to the solution of some of the problems that face us. I want to make just two points in the brief time which I have.

First of all, I think it is unwise for the Members of this House to feel that what we have is a temporary emergency. Many of us have been exposed to briefings with regard to the long-run nature of the energy crisis which faces this country. It would have been a critical situation in the very near future without regard to the question of the availability of oil from the Middle East.

Perhaps we ought to be grateful for the fact that we are now being forced to take certain actions which in a very short time we would have had to take anyway, and perhaps with worse results than those that will follow when we take them now.

There is no question but what in the long run this country is going to have to do a number of things involving the reduction of the use of energy and the development of new and nonpolluting sources of energy which we have not done before or have not done with sufficient rapidity.

Mr. Chairman, I hope, while we are considering this bill which is labeled as an emergency short-time bill, that we will not forget that we are truly up against a long-run situation which we will have to face in the very near future and on which there will be other legislation which I hope will be before this House soon so that we may deal with it.

There are a number of points with regard to this current bill on which I have some objections.

They are in some cases substantial and in others not so substantial.

I will have some amendments which I will offer when we reach that stage when we consider the bill during the amendment process.

I do wish to point out that this so-called emergency short-range bill has been used as a vehicle for making changes in the automobile emissions standards and in the ambient pollution standards in the years 1975, 1976, 1977, and 1978, which cannot by their very nature have any impact upon the immediate problem which is supposedly the basis for this bill. **[Sec. 203.]**

I am going to raise some questions as to why we need to act hastily in connection with these various substantial changes in the air pollution control standards.

I understand and I appreciate the fact that the members of this committee are as concerned as I am about clean air in this country, and I am sure that there is a reasonable and rational way in which necessary changes in these standards can be made over a period of time.

Mr. Chairman, I am questioning the desirability of moving to put them into this bill, which by its language expires in a little over a year, instead of doing it on a more considered basis.

Mr. YOUNG of Texas. Mr. Chairman, I would like to ask the gentleman from West Virginia what the situation would be or what he expects as to this situation.

Down in the Southwestern part of the United States we have many utility companies, power companies, that are located near vast gas reserves, with several of them setting right over them. Of course, that

gas in committed by contract to many places back in the East and to other places. As a result, these utilities have never used anything but gas; they have never used coal or anything of that nature.

Now, with the contracts being such as they are, it may very well be that soon some of these utilities will find it necessary to switch to oil, to burn oil instead of gas.

Is there anything in this bill that would prevent them from making that conversion if necessary?

Mr. STAGGERS. No, sir.

Mr. YOUNG of Texas. Mr. Chairman, I thank the gentleman.

Mr. PICKLE. Mr. Chairman, when the House passed the mandatory allocation measure a certain priority was given to farmers to receive diesel fuel so that they could bring in their crops. Indeed, that and the independent gasoline people were the very purposes for which the bill was enacted. They had this priority. And yet farmers all over America do not have the diesel fuel to put in their tractors to work the fields. We have made legislative history on the floor saying that they should be given that diesel fuel and that they would not be limited strictly to the fact that the allotment would be based on 1972 as the base period. The Office of Oil and Gas Allocations have issued orders and rules and regulations indicating that they should be given that fuel and have even put this into the orders saying that there will be no prosecution of these companies if they should give them the fuel.

Yet the major companies do not yet give the diesel fuel up in the amounts that they should. They have the fuel on hand. There are lawyers for the major oil companies that state, "Unless you can show me in writing that you can use anything except the 1972 base period, you cannot get the diesel fuel, and you cannot sell it to the farmers." This is a narrow-minded approach to attempt to get around what we said should be done.

Either the large oil companies are making a selective distribution of that fuel, or they are holding it for their own resale outlets or purposes or they are hoarding it for speculation when they can get a higher price for the commodity. That may or may not be the case, but I intend to introduce a resolution to say that if the administrator down the street does not see that the fuel goes to the farmers as we have said it should, then he will be guilty of penalties. I know these penalties are already in the law, but we are not getting any action on them.

I want to state this again by this amendment, that we will enforce these penalties if the administrator or suppliers do not comply, because it is our intent that it should be done.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from New York for a question.

Mr. BINGHAM. Mr. Chairman, I would like to ask a question about **section 106**.

In New York City, of course, they are very concerned about the burning of coal by the electric utilities. As I read that section, if a plant is approved under subsection (d), under certain conditions plants could continue to use coal until January 1, 1980. That section provides for a deadline with plans to be approved before May 15, 1974.

My question is, If the plant is disapproved as submitted, would it mean that the utility would not be permitted to use coal?

Mr. STAGGERS. Unless it would qualify for a suspension under the Clean Air Act. That would be under the regular procedures we have under the Clean Air Act as amended by this bill in **title II**.

Mr. BINGHAM. But under this act the provisions of **section 106** permitting use of coal would not apply if the plant were not approved. Is that correct?

Mr. STAGGERS. That is correct.

Mr. ANDERSON of California. Mr. Chairman, I have an amendment that I plan to offer at the appropriate time which would be a logical extension of the section in the bill which focuses on "windfall profits."

Very simply, this amendment would bring automobile insurance rates under the provisions of this section.

As you know, the one "silver-lining"—the one benefit—of the energy crisis is the result the energy conservation measures will have on automobile traffic accidents and fatalities. In effect, we will most probably witness a reduction in death and disaster on the highways.

Obviously, if we see a 30-percent reduction in vehicle miles traveled, we should see—theoretically, at least—a 30-percent reduction in automobile accidents.

In addition, the lowering of speed limits will result in a reduction of both the frequency and severity of accidents on the highway.

Thus, with the resulting reduction in claims against automobile insurance companies, we should witness a lowering of insurance rates to coincide with these changes.

But to insure that the insurance industry does not reap windfall profits as a result of the energy crisis and the conservation measures mandated by the Government, I believe that the bill should be amended to include insurance companies, as well as oil companies.

Mr. Chairman, the American consumer is being asked to make tremendous sacrifices to conserve energy. The one area where he may be in a position to see some good coming out of this crisis is in the automobile insurance rates.

We need the confidence and the cooperation of the American people to make the energy conservation program work.

Let us give him that confidence by insuring equity in the rates he pays for auto insurance.

I hope that you will join me in this effort to make sure that the consumer reaps some benefit out of the crisis in which we presently find ourselves.

Mr. DON H. CLAUSEN. Mr. Chairman, we have before us the Energy Emergency Act which is extremely complicated and which has long-range ramifications that cannot readily be foreseen by the Congress or the American public.

In a way it is a test of our resolve to meet a problem head on and solve it in a positive way as we have always done. I have reservations about certain portions of this measure as I am sure we all do, but I am pleased that the Congress is now actively seeking constructive solutions to our energy needs.

Two years ago I reported to my constituents in California's First District that we were nearing the end of cheap energy in this country. I followed up that report with six more comprehensive reports on specific aspects of the problem.

Today, I would like to comment on several specific sections of the Energy Emergency Act and the implementation of its provisions.

First, the allocation of petroleum supplies is authorized until May 1975 under **section 103** of the bill. It lists certain priority categories such as housing, education, health care, hospitals, public safety, energy production, agriculture, and transportation services.

It is important that these priorities be respected and that allocation decisions be made only on the basis of a full understanding of all the facts and that these decisions be continually reviewed to insure they are consistent with energy conservation goals.

Housing for example, is basic to our economic and social welfare. We must make certain that construction can go forward but we must also assure a ready and available supply of the raw materials for constructing these houses. Timber resources must be available, and the transportation capability to get them to the mill and then to the market must be given a very high priority.

It goes without saying that education is a necessity. In fact, it is the student of today who will provide the advanced technology to meet our energy needs of tomorrow.

Local school administrators in my district have pointed out that if their transportation system is cut back, gasoline use will actually increase since students will have to get to school individually, in automobiles, rather than in groups by schoolbus.

If we unnecessarily restrict our economy in seeking to achieve energy conservation, we will be acting in a counterproductive way since we will need our economic strength and stability to meet the energy demands we face.

We have seen an abortive example of this recently when an announcement was made cutting general aviation fuel supplies by about half. This decision was obviously arbitrary and based upon a complete lack of understanding on the role of general aviation.

I was pleased we were able to get this order modified and I hope the language in **section 105(c)** of H.R. 11450 will prevent this from happening again.

The provisions of **section 107** permit the Civil Aeronautics Board to "take any action" determined to be necessary to meet fuel conservation requirements in airline service. It is my strong view that "any action" should not consist of depriving a community of its airline service. While I have no objection to modifying the frequency of service or the means by which that service is provided, I would strongly oppose any complete elimination.

The nature of my district is such that I am well aware of the dependence isolated rural areas have on the airplane for transportation needs. This dependence is real and must be considered by the CAB.

Finally, the committee has included a provision in the bill which prevents the Environmental Protection Agency from imposing taxes as a means to control pollution. Taxation is a subject that must remain within the jurisdiction of the Congress and, in particular, the Ways and Means Committee of the House. I fully support the prohibition contained in the bill.

Mr. BROYHILL of Virginia. Mr. Chairman, all of us in America have been in the habit of using energy in great abundance. It has been, in

fact, the lifeblood of our country's social, economic, and diplomatic welfare; of our standard of living, of our very way of life.

In June of this year, I reported to the citizens of northern Virginia of the strong possibilities of the crisis in energy that is now upon us and the need for the Congress to take positive action on a number of measures before it to lessen the impact facing the Nation. I also urged the people of the 10th District of Virginia at that time to carefully and wisely use the fuels they needed in the hopes that we could get through this period of tight supplies that was obviously coming with only minor inconveniences. Today the real dimensions of the energy emergency are clear to all.

Suddenly our people have found themselves turning down their thermostats and wearing a sweater in the house, giving up their long Sunday drives, reducing their driving speeds, sweating out their jobs if they sell or make large cars or happen to be in the plastic or synthetic industry, and among many other things facing rising inflationary conditions because oil companies are being forced to pay more for a barrel of crude oil that today is a scarce raw material.

Obviously every reasonable solution must be taken by the Congress, the several States and municipalities and the people themselves to solve this unprecedented energy problem.

The bill before us today, H.R. 11450, the Energy Emergency Act, grants the President specific temporary emergency powers to cope with the energy shortages so as to meet essential needs of our people in a manner which is consistent with the protection of our environment. Moreover, these authorities provide for the maintenance of vital services necessary to health, safety and public welfare and still minimize the adverse impact on employment by providing for equitable treatment of all sectors of the economy.

While there are some provisions of the bill that I oppose, and I will support amendments to clear up those provisions, I support the bill in concept as necessary legislation required to increase the supply of domestic oil production and to make more effective use of our vast coal resources. Additionally, I am pleased to see that the committee, acting in its wisdom, included a provision in the bill to restrict the power of the Environmental Protection Agency to approve a parking surcharge regulation which has not been adopted and submitted by a State as part of an implementation plan of that State.

I am opposed to **section 103** of the bill as it leaves the executive branch with little else than to impose rationing of available supplies of fuel. **Section 105** of the bill as originally introduced was a far more flexible approach to the problem and required rapid reaction on the part of the executive branch, within 30 days after enactment, to come to the Congress with its specific fuel conservation plans. Congress would have 15 days to eliminate those elements of the plan they disagreed with.

As this measure is now set forth in the bill, it removes the congressional veto and provides for Congress to act affirmatively before any plan can be implemented. This time consuming legislative action required in the bill defeats the use of the phrase Energy Emergency Act and forces the executive branch in effect to impose rationing to prevent chaos in our economy and hardships against our people.

With correction of this and other minor deficiencies in the bill, the Congress will have taken a major step to assist the Nation to cope with the energy crisis.

Mr. JONES of Alabama. Mr. Chairman, I am in support of **title II** of H.R. 11450, the Energy Emergency Act, and particularly of the amendment offered by the gentleman from New York (Mr. Murphy) during the committee's consideration of this significant legislation.

In sponsoring the amendment to provide relief for electric power consumers from unnecessary expenditures, John Murphy showed a knowledgeable understanding of the problems of the Senate-approved proposal. His energetic and skillful activities in the committee should earn him the gratitude of users of electricity throughout the Nation.

While there have been news reports to the contrary, it should be made clear exactly what is involved in the differences between this title and the similar legislation approved by the other body.

Although offered as a temporary suspension of the standards called for by the Clean Air Act of 1970, the sum of the provisions of the other body are nothing more than an attempt to make a major change in the Clean Air Act without adequate hearings and examinations such an alteration should involve.

In so doing, the language of the other body would commit the people of this Nation to a course which is environmentally disastrous, unnecessarily expensive and needlessly wasteful of already short supplies of fuel and energy.

The proposal adopted by the other body introduces for the first time for existing sources—and thus alters the individual State implementation plans—a requirement for “continuous emission reduction measures.”

The practical effect of the use of this term would require every producer of electric power to make a present commitment to install scrubbers or burn very low sulfur coal. This ignores alternative technologies which may in certain instances meet the primary and secondary ambient air quality standards at one-tenth the cost.

The citizens who use electric power in their homes, businesses, or factories will be put to unnecessary expense. As you know, in this regulated industry, the cost of production are passed on to the customers.

Section 110 of the Clean Air Act provides that States shall adopt State implementation plans—SIPS—for attaining and maintaining the national ambient air quality standards. The only words in the section which could be said to limit the measures which a State could adopt to achieve this goal are the following:

(The implementation plan shall include) emission limitations . . . and such other measures as may be necessary to insure attainment and maintenance of such primary and secondary standards . . .

It is very clear these words mean that a State can use any reliable and enforceable method or methods it wishes in order to achieve the ambient standards. But, if “emission limitations” must be included in each SIP, they do not have to apply to all sources. In any event, the term “emissions limitations” does not mean only continuous and fixed emission limitations, but also includes variable emission limitations which may change as the conditions affecting plume dispersion change.

Studies by the Tennessee Valley Authority, which has been exploring methods of dealing with problems of clean air long before national

legislation was enacted, indicate the requirement for installation of scrubbers on existing generating facilities will add at least one-third to the cost of producing electric power. Investigations by other producers of electric power indicate the scrubber requirement may double the cost of producing electricity—and this is exclusive of already frightful trends on the other costs of producing thermal electric power.

The Committee on Interstate and Foreign Commerce has wisely required the Environmental Protection Agency to report on the impact of the scrubber requirement on the Nation's environment and energy supplies. **[Sec. 201, Sec. 119(d)(2) CAA.]**

The members of the committee are to be commended for their informed approach to this problem.

Most of us have been firm and stated repeatedly throughout the years that the greatest threat to our Nation's efforts to clean up our water and air comes from the ill-advised actions of strenuous advocates who, through unnecessary requirements, lose the support and endorsement of the great majority of the public.

Mr. EVINS of Tennessee. Mr. Chairman, the Associated Press has just completed a survey of 20 of the largest oil companies.

The results of this study indicate that the trend of concentration and monopoly in the oil industry continues and accelerates with the Nation's 20 largest oil companies controlling 95 percent of the industry's known oil reserves and dominating new energy sources.

Just 2 years ago this week, the House Small Business Committee which I am honored to serve as chairman, released a similar report based on hearings held by the Subcommittee on Special Small Business Problems, chaired by my distinguished colleague, the Honorable Neal Smith of Iowa.

This report pointed up the growing trend of big oil acquisition of a large percentage of coal reserves, uranium reserves and milling, in addition to refining capacity and natural gas production.

The report warned:

If such a trend . . . is not reversed . . . a very dangerous monopolistic fuel supply could eventuate.

Mr. Chairman, according to this latest of the Associated Press, this trend has not been reversed, but continues as the Nation and the world face growing energy problems.

Mr. DONOHUE. Mr. Chairman, I earnestly urge and hope that the House will overwhelmingly and promptly approve, with appropriate strengthening amendments, the substance of this bill, H.R. 11450, the Energy Emergency Act of 1973.

Although our Nation is currently and unfortunately afflicted with an unprecedented number and variety of tremendous challenges it is commonly accepted that the most immediately important problem affecting the well being of the American people is the suddenly erupted energy shortage crisis.

On this score, Mr. Chairman, as I have stated before, whoever may be blamefully involved in this crisis and whatever may be the background complexity of its causes our cost imperative congressional duty now is to legislatively move as swiftly and as effectively as is humanly possible to equitably alleviate the hardships accompanying this sudden shortage and provide for the most prudent use of our petroleum products supply at hand.

Mr. Chairman, in summary, the bill before us is designed to move toward the speedy accomplishment of this overall national objective by granting, along with many other provisions, specific temporary emergency powers to be exercised by the Chief Executive with congressional concurrence, creating a special agency of combined resources with decisionmaking responsibility to carry out approved conservation programs, authorizing controls on end-uses of petroleum products, placing rigid restrictions on windfall profits, directing efforts to minimize the impact of energy shortages upon employment and to revise unemployment insurance programs to meet the needs of all adversely affected workers, instituting mandatory conservation measures, encouraging action to increase the supply of domestic oil production, requiring that certain steps be taken to promote the more effective use of our Nation's coal deposits and restricting exports of coal, petroleum products and petrochemical feedstocks.

Of course, Mr. Chairman, the measure of our success in trying to overcome the unhappy effects of the energy shortage will be mostly in proportion to the manner in which the necessary regulations and restrictions are applied.

And, in this vein, Mr. Chairman, may I say I am vigorously opposed to any special Federal tax on gasoline and any allowance of exorbitant price increases on gasoline, oil, and other petroleum products that would permit the extraordinarily high oil company profits to be additionally and unreasonably swelled at the hardship expense of the faultless general public.

I would emphasize, Mr. Chairman, that our predominant legislative duty here today is to make as certain as we can that the energy shortage sacrifices that must be nationally endured will be shared equally among all segments of our economy and all our citizens whatever their status. Any other course, Mr. Chairman, can only result in unconscionable discrimination, with accompanying demoralization, being imposed upon the poor and the fixed, low and middle income people of this country and thereby doom the best intended measure to utter failure. I sincerely trust that the executive department of the Government will fully cooperate to prevent any such tragic failure.

Beyond our prompt determination of this particular bill, Mr. Chairman, we must speedily proceed to the consideration and adoption of a further appropriate bill to initiate and complement long-range plans and programs to make and keep this country forever free and independent of the political pressure whims and threats of our oil supplying sources in the Mideast.

The history of this mighty Nation, Mr. Chairman, repeatedly shows that whenever a particular emergency arises and our people are assured that accompanying necessary burdens and hardships are equally imposed they can and they will exercise the full spirit and dedication, courage and perseverance that is required to meet and solve the challenges of the moment.

Therefore, Mr. Chairman, I indeed hope that our final action on this bill will reflect an exemplary exercise of legislative fairness that will serve to rally and unite our people within the traditional virtues of patriotic good will and cooperation to once again resoundingly triumph over this tremendous but temporary national adversity.

Mr. BURKE of Florida. Mr. Chairman, I voted in opposition to the rule for consideration of H.R. 11450, the National Emergency Energy Act. In all probability I will vote against the bill on final passage.

In my opinion, the bill is a hasty effort to meet a crisis but no matter how well intended by the committee that voted it out it is not a good bill nor well thoughtout. Some have stated that "we cannot go home for Christmas" unless we pass an energy bill that we can take to conference as a compromise to the Senate bill. This makes no sense to me at all. Passing bad legislation will only deepen the present crisis. It is the responsibility of the Congress to look out for the welfare and health of the citizens of the United States, and there is no question in my mind that if, our energy situation is as acute as many say, then the people, if drastic measures must be taken, should have good legislation—not expedient legislation.

H.R. 11450 was reported out of committee just 2 days ago and few of us have had sufficient time to familiarize ourselves with the contents of the bill or to digest the testimony or the committee report, particularly since we have been going into session early and have been staying late every night in connection with other important legislation.

If there is an energy shortage, and I feel that many of the "so-called" facts are speculative rather than real. I feel that there has been a great deal of crisis comment which has not been accompanied by full proof. I sincerely feel that the crisis is perhaps real but much of the shortage of oil, as it is, is a ploy by the oil companies to insure the oil companies' profits by suspicious shortages.

Personally I feel we would be serving better if we were to stay in session through the holidays if necessary, and pass a good bill than to vote for this bill which is bad enough but which can only become by compromise and creaking a huge bureaucracy to handle a problem which so affects our people. In fact what we do today may well make or destroy our Nation.

The energy crisis is a surprising shock to all Americans, and unfortunately, the communications with respect to gasoline and other fuel shortages, based upon solid information was not communicated to most of us, myself included. Why also didn't the press and the auto manufacturers know? The automobile manufacturers and the leaders in our industries in the main could not have been accurately forewarned, or they would have spoken out more loudly by the gadget craze. I personally have seen no positive proof other than the cutbacks, and a few statements of the top leaders and advisers.

Too often the Congress has acted in haste to pass legislation to meet crisis situations. An example was the Gulf of Tonkin resolution. The evidence which the Congress was given at that time indicated a threat to U.S. forces and indicated the need for immediate action by the President. Since that time, the Congress discovered that many of the statements that were made then were erroneous. Subsequently the Gulf of Tonkin resolution was repealed but what has the Congress learned?

Gentlemen, no wonder our citizens are disillusioned. When we as leaders act hastily on important legislation just to satisfy those that cry wolf, or even worse, for a holiday then we are heading for trouble.

Mr. Chairman, I honestly feel that the House of Representatives is capable of enacting good legislation to meet the energy crisis but not by

passing H.R. 11450, amended or otherwise. How gentlemen can we preserve our country if we are to weaken our antitrust laws instead of strengthening them. I favor the right to make a profit—the oil companies should; but it should be remembered that the majority of oil companies are multinational. My loyalty is to the people of my country.

Mr. ASHLEY. Mr. Chairman, in spite of the need to take further steps to conserve and expand our energy supplies, I must rise to express serious reservations about the bill, H.R. 11882, now before us—one procedural and the others substantive.

The grant of authority to the executive to allocate or ration fuels to individual consumers as provided in the bill is far too broad. The power to ration fuels in a society which is as energy intensive as ours can be the power to prescribe economic life or death. Such a power should be closely circumscribed with a provision for congressional oversight and veto. The bill as amended does not provide this. Under the bill before us, to stop a rationing program that is considered excessively injurious to a particular region or economic sector, Congress would be forced to enact new legislation rejecting such a rationing program. Such legislation would, of course, require support of two-thirds of each body since it would be subject to Presidential veto.

Each of the substantive shortcomings of H.R. 11450 is the absence of a requirement that fuels be allocated on the basis of their impact on jobs. There are no criteria which require allocation of fuels to assure, to the extent practicable, that unemployment resulting from shortages would be evenly distributed. For example, if a particular industry can absorb a substantial reduction in fuel while maintaining full or near full employment, its allocation should be appropriately reduced. If employment in another industry would be markedly reduced as the result of only a modest reduction in its fuel supply, legislation without this approach is simply unacceptable.

Further, the bill would allow the Administrator of the new Federal Energy Administration to prevent the burning of natural gas or petroleum by any major fuel-burning institution without first making any attempt to share clean fuels on the basis of environmental need. **[Sec. 106.]** The President has stated that he intends to exercise such an authority, and the results will be that many plants will be required to convert to the burning of coal, a shift that may well result in emissions beyond safe levels. The widespread conversion of plants from oil to coal prior to an attempt to allocate clean fuels to critical areas may well result in the needless fouling of our cities' air.

Unfortunately, Mr. Chairman, the committee reported bill also adopts a general end use allocation formula which invited numerous groups to pursue their special interests by pressing for amendments to protect themselves either by obtaining a priority status or by specifying that the administration cannot discriminate against them. Thus, the bill has become a Christmas tree with dozens of ornaments in the form of special interest amendments, including provisions for programs that are highly controversial and only marginally related to fuel conservation, and of which many will fall under the jurisdiction of other committees of the House.

Finally, I have reservations about the effectiveness of this bill to maintain stable gasoline and petroleum price levels, including fuel

oil. My feeling is that the giant oil industry will reap even greater windfall profits at the expense of the consumer, as they have done for much of the last year, and that it would simply be impossible to return these profits through price reductions or reimbursements.

In closing, I must say that the administration has been totally unresponsive to an energy shortage which many of us have been predicting for more than a year. Unresponsive, that is, to the American public, but not unresponsive to the major oil interests who contributed so generously—and often illegally—in support of the President's campaign last fall.

It is a matter of record that the administration has had ample powers for months to control the energy crisis. In April of 1973 amendments to the Economic Stabilization Act provided the power to allocate fuel. However, it was not until October 3, 1973, that Governor Love issued regulations for the allocation of propane and not until October 16, 1973 that middle distillates were allocated. After awaiting a mandatory allocation program for all fuels for months, Congress finally had to pass the Emergency Petroleum Allocation Act of 1973 and even this legislation faced administration opposition. Because of the administration's misuse of existing authority this legislation must be passed. We must force the administration, no matter how reluctant, toward an equitable program of fuel conservation and rationing.

Mr. BINGHAM. Mr. Chairman, the National Energy Emergency Act, H.R. 11450, we are considering today is crisis legislation, drafted to respond to the fuel shortages which threaten to cripple this Nation. It proposes to authorize and direct the President to take a variety of emergency actions to conserve fuel, and to submit plans to Congress within 30 days for further actions. It is an incomplete package of proposals, plans, studies, and specific short-term authorizations which avoids some of the hardest and most important questions about how this Nation should deal with the impending shortages of petroleum products this winter. Nonetheless it is important and vital legislation and I intend to support the bill.

I think few of us are not by now convinced that we are facing acute shortages of oil, gas, and petroleum products in the coming months. Prior to the outbreak of the Mideast war, the Department of the Interior predicted that we would suffer from regional shortages of petroleum products during the coming winter, and these predictions have become worse and worse following the embargo of Mideast oil. Estimates of the shortage now run between 15 and 25 percent of demand. There are lingering, persistent questions about the real causes of these shortages and the relative roles of the Government, the oil and gas industries, and a voracious public appetite for more and more energy in creating them. These questions must be answered, but the crisis is a real one and we cannot put off dealing with it any longer.

On November 15, I introduced a bill, H.R. 11509, which would have declared a national energy emergency and directed the President to undertake a variety of actions to conserve fuel during the coming year. Many of the provisions of this bill are contained in the legislation before us today.

H.R. 11450 establishes a Federal Energy Administration to administer the emergency powers granted by the bill. The Administrator

of this new agency is directed to draw up a variety of plans for conserving energy and to submit them to the Congress in the immediate future. He is authorized to direct powerplants to shift to the use of coal, to help stores and shopping centers to limit operating hours, and required to study energy conservation measures and report to Congress within 6 months. Other sections of the bill—direct the Department of Transportation to help set up car pools across the country—authorize the Environmental Protection Agency—EPA—to ease air pollution standards for powerplants so they can shift to more available fuels—authorize EPA to suspend for 1 year automobile emission requirements—authorize EPA to review State air quality plans in light of the energy crisis—authorize EPA to designate those sections of the Nation, such as New York, which need clean fuels most to protect air quality—authorize EPA to study the feasibility of establishing a fuel economy improvement standard of 20 percent for 1980 model cars—exempt most energy emergency actions from normal administrative and judicial review and from the antitrust laws.

Most of these authorizations expire on May 15, 1974, but some could continue for years. Several of these provisions disturb me a great deal. For example, the bill leaves the President to institute a gasoline rationing program and rationing is seen as such a hot potato that the word “rationing” is not even mentioned in the bill. The legislation which I introduced would have directed the President to draw up a gasoline rationing plan immediately. Some form of rationing, distasteful as it may be to all of us, seems inevitable at this point.

Congress should bite the bullet and insist that, at a minimum, a rationing plan for gasoline sales at the retail level be drawn up immediately and submitted to the Congress for approval. I am disappointed that the legislation before us today dodges this issue.

Another omission in this bill is a provision for responding to the inevitable economic dislocation and hardships the fuel crisis is going to cause. Factories and businesses may be forced to close, and the layoffs and job losses which have already begun will continue. The present system of unemployment compensation could be bankrupted by the thousands of new claims these disruptions will produce, and a supplemental system must be established. The Government has a responsibility to provide for the welfare of workers and their families who, through no fault of their own or of the companies for which they work, lose their jobs because there is not enough fuel to go around.

An equally glaring oversight in this legislation is the desperate need for increased public support for mass transit transportation systems on the basis of energy efficiency. The greater fuel efficiency of subways, buses, and trains in moving large numbers of people and the precarious financial status of most mass transit operations underscores the need for immediate support from the Federal Government for mass transit. Expanding mass transit systems and making them cleaner, quieter, more comfortable and less expensive would greatly reduce our national addiction to gas guzzling automobiles and conserve potentially tremendous amounts of fuel. Rather than direct the Federal Energy Administrator to study methods of assisting mass transit and report back in 6 months, as this bill does, the Con-

gress should direct the President and the Administrator to recommend legislation with Federal incentives for the use of mass transit to the Congress for immediate action. At a minimum, Congress must complete action on the \$800 million mass transit subsidy legislation which has already passed the House, and I urge the President to sign that legislation into law as soon as he receives it.

The need to conserve energy and the need to clean up our air meet head on in this bill, and in every such clash the bill recommends that the air get dirtier. Clearly some sacrifice in environmental quality are going to have to be made in the coming months. When low sulfur, cleaner oil is in short supply, some powerplants will have to burn high sulfur oil or coal, and the Federal Energy Administrator and the Environmental Protection Agency Administrator will both have roles in deciding which powerplants should make the shift to the dirtier fuels. I am concerned about the amounts of authority this bill delegates to make these kinds of decisions. Clean air goals may be amended or postponed without substantiated and convincing evidence of the need for such sacrifices. If the administration's exercise of the discretionary powers this bill grants are biased too heavily against environmental considerations, Congress will have to use the review and approval powers reserved to it to reverse those decisions.

The antitrust provisions in the bill before us are dangerous. I will support amendments to tighten them up or eliminate them.

This emergency legislation should at least start this Nation on a new course of conserving rather than wasting energy. There are many more problems ahead of us and much, much more to be done. We still do not have a comprehensive energy policy or a coordinated approach in either the Congress or the executive branch to energy problems. Governmental reorganization, massive research and development programs to tap alternative energy sources, wide-ranging and specific energy conservation programs, new energy information gathering systems, measures to prevent any slowdown or holdback in the oil and gas industries—all these measures and more are needed and must receive speedy congressional attention. This bill is only the beginning.

Mr. PRICE of Illinois. Mr. Chairman, I support H.R. 11450, the Energy Emergency Act that the House Interstate and Foreign Commerce Committee has brought to the House for consideration. Under the most difficult circumstances, the committee has done a good job in reporting a bill that seeks to minimize as equitably as possible the potentially severe economic disruptions of the energy crisis.

There are a number of important provisions in the legislation that concerns every American. First, I think it is important to note that the Congress has not delegated unrestricted authority to the President for dealing with the energy crisis. Rather, and rightfully so, the Congress, under the terms of this legislation, has required the submission of specific energy conservation plans that are subject to legislative review. This is an important step in reaffirming Congress role in policymaking. **[Sec. 105.]**

Because of the expected hardships facing the American people with the energy crisis, that the bill contains a provision dealing with wind-fall profits. **[Sec. 117.]** I feel that no one should be in a position to

take undue advantage of the situation while others are called upon to sacrifice.

Important, also, to the American people is the provision requiring the President to develop programs and plans for protecting the American worker from job loss because of energy shortages. **[Sec. 122.]** The prospects for a 6-percent or higher unemployment rate at a time corporate profits are reaching alltime highs cannot be condoned. We must not allow economic hardship to hit the worker who makes those profits possible in the first place. The energy crisis should not be used as an excuse for furthering the economic imbalance that already exists in this country.

I am glad to note that the bill also contains language restricting the exports of fuels and energy sources. **[Sec. 123.]** It seems self-evident that if the American people are called upon to use less fuel, this Government should take every possible step to protect our domestic supplies.

The last provision I want to mention is that concerning the increased use of our coal resources. **[Sec. 106.]** Coal, one of our most abundant resources, has not been utilized as effectively as it can. It has been estimated that within 1 year, an additional 75 million barrels of oil per year saving can be realized by reconvertng units to coal use. Moreover, with all conversions completed, the annual savings in residual oil for electricity generation would be approximately 180 million barrels per year or almost 500,000 barrels per day. I think we must move ahead with our coal conversion efforts.

Mr. ROGERS. Mr. Chairman, I congratulate the distinguished chairman of the Committee on Interstate and Foreign Commerce for his leadership and perserverance in shepherding this complicated piece of legislation through his committee. I am pleased that this bill contains provisions of H.R. 11409, developed by the Subcommittee on Public Health and Environment, with respect to stationary fuel sources. I am also particularly pleased that three amendments with respect to the Clean Air Act, on which the subcommittee held extensive hearings, and which the majority of the subcommittee members recommended to the full committee, were ratified by the full committee and are contained in this bill. Let me describe these provisions to my colleagues.

First, the committee adopted a subcommittee amendment which is found in **section 202(b)** of the bill, beginning on page 77. That amendment places an absolute moratorium on parking surcharge regulations advanced by the Environmental Protection Agency as one of the transportation control methods in order for air quality regions to meet the primary ambient air quality standards. States and localities will still be allowed to impose surcharges on parking, but could not be forced to do so by the Environmental Protection Agency. It is the subcommittee's view that the imposition of parking surcharges by the Federal Government is an extremely unwise and discriminatory method of attaining the standard and that every consideration should be given to methods other than parking surcharges. It is an extremely dangerous practice for an agency to, in effect, impose a tax without specific congressional approval. For this reason, the amendment mandates submission of a report to the committee that would include an assessment of the economic impact of such regulations, reducing total

vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with transportation. The Subcommittee on Public Health and Environment will review the report carefully. I reiterate that the effect of the section is that such surcharges may not be imposed by the EPA until the Congress authorizes use of this method to attain the primary standard.

Second, Mr. Chairman, the subcommittee reported—and the full committee adopted—what is now **section 203** which begins on page 79. That section does the following:

It freezes the automobile emission standards for carbon monoxide and hydrocarbons at the Federal interim 1975 level for 1976. It authorizes an additional waiver—for the 1977 model year—of the statutory standard that otherwise would have gone into effect, upon a determination by the Administrator of the Environmental Protection Agency that application of such standard would result in a significant increase in fuel consumption. With respect to oxides of nitrogen, the bill establishes the 1976 level at 3.1 grams per vehicle mile and the 1977 level at 2.0 grams. The standard would revert to 0.4 grams per mile in 1978 unless the EPA authorizes a suspension. Again, the basis for the suspension would be a finding of a significant increase in fuel consumption. One year suspensions are authorized on a year-by-year basis until model year 1983.

Finally, Mr. Chairman, **section 209** of this bill, beginning on page 93, would require the Administrator of the Environmental Protection Agency to report to the committee within 120 days of enactment of this legislation on the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. The EPA already has gained great expertise in fuel economy as a result of engaging in a study leading to labeling of automobiles with respect to the miles per gallon they achieve. Upon receipt of this study, the subcommittee will give active consideration to legislative proposals designed to increase fuel economy.

Mr. Chairman. I am grateful to the members of the Subcommittee on Public Health and Environment for their diligence in working out these three amendments. Our hearings continued well into the evening hours, and I believe that this diligence resulted in adoption of amendments which recognize that some adjustment must be made because of the energy crisis, and yet to no violence to the fundamental scheme of the Clean Air Act that mandates a reduction of automobile pollutants and the achievement of primary standards designed to protect the health of man. I particularly recommend these three sections to the Members of the House as products of considerable attention by members of the subcommittee that initiated the Clean Air Act.

Now, Mr. Chairman, permit me to comment on **section 105(c)** of the bill which mandates that energy conservation plans shall provide for equitable treatment of all classes of fuel use.

This section is deliberately designed to insure equitable distribution of the burdens of a reduction of fuel consumption among all segments of commerce.

I wish to call my colleagues' attention to page 27 and 28 of the committee report, which addresses itself to the issue of equitable dis-

tribution. I particularly call their attention to the following statements on page 27:

... there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as *recreational activities* or *various aspects of general aviation*) if to do so would result in significant unemployment. There are, of course, many areas in this nation where recreation and tourism provide the base of the local economy, (emphasis added).

Mr. Chairman, in my view, this equitable distribution would serve to restrain the Administrator of the allocation program from cutting aviation fuels by 42.5 percent as was recommended in the President's November 25 factsheet on aviation cutbacks. Such a severe cutback on aviation fuels would paralyze the general aviation industry and would cost over 100,000 jobs and over \$2 billion loss of revenue to the economy, according to some experts.

Also, Mr. Chairman, I believe that it is abundantly clear that **section 105(c)** serves to prohibit the Administrator from adopting a proposal which would cause unemployment in the recreational industry. For example, the fiberglass and boat manufacturing industries will be forced to shut down unless they receive an equitable allocation of fuel as proposed by the committee bill. Furthermore, most pleasure boating, long distance automobile travel and many other recreational activities would be severely curtailed without adequate assurances of equitable fuel allocation. I believe it is the committee's intent, as expressed on page 27 of the report, that allocations not be denied to these industries so as to cause unemployment.

It is clear that it is the committee's intent to treat all facets of commerce on an equitable basis. This is essential to the survival of a strong economy in such States as Florida, which has substantial economic interest in recreation and tourism.

I believe that if our Nation is going to overcome this energy crisis, we must take measures which will maintain a strong economy and which are premised upon an equitable distribution of the burdens of fuel economy throughout all sectors of users. We cannot totally sacrifice some sectors at the expense of others. **Section 105(c)** assures just this.

Finally, Mr. Speaker, I believe we must recognize that it will take much more than implementation of this bill to overcome the energy crisis. It is necessary for our Nation to utilize and develop other potential sources of petroleum if we are to achieve our goal of providing sufficient energy to the Nation. We must establish programs for continued development of alternate oil reserves in our own Nation; for an increase of imports from other nations, particularly from our South American neighbors; and for an extensive research and development program directed toward finding alternate sources of energy other than petroleum.

With respect to alternate reserves, there are extensive untapped petroleum reserves in shale oil in the continental United States which must be developed if we are to provide an adequate supply of energy for the Nation in the future.

Occidental Petroleum Corp. estimates a total potential reserve of shale oil equal to 47 times the total petroleum reserves in the United States and two and a half times the total world reserves. Particularly

in view of the fact that an estimated 80 percent of shale oil reserves are on Federal lands, it is imperative for the Federal Government to develop to the fullest extent practicable this alternative.

Second, imports can be increased. I understand that Ecuador has total reserves of approximately 4-billion barrels of oil and that it could gear up its oil production to a level of 400,000 barrels of oil per day by the middle of 1974, provided that its negotiation for the expansion of the existing trans-Andean pipeline are successful.

The proposed new extension of this pipeline would connect with the existing one in Colombia and could convey up to 200,000 barrels per day. A recent study by a U.S. consulting firm, Terramar Consultants of Dallas, Tex., indicates that Ecuador's reserves are substantial, but are undeveloped and untapped.

In addition, Colombia is estimated to have a total reserve of approximately 1½-billion barrels. Colombia now produces only 49,000 barrels per day but has an estimated potential for 1974 of producing 192,000 barrels per day, provided this potential is developed. Presently, the Colombian pipeline extension of the trans-Andean pipeline can convey up to 200,000 barrels per day—which is sufficient to accommodate most of their country's total potential capacity. However, Colombia needs more pumping stations and a new loop to bring in oil from the Putumayo Basin. The United States must provide incentives to these and other South American countries which have untapped oil reserves in order to meet our immediate needs through important of petroleum.

Lastly, it is necessary of our Nation to implement the use of alternative sources of energy, such as solid waste, solar energy, geothermal energy, energy created by ocean thermal change or by ocean currents, and other nondeveloped sources. We must also expand our efforts to improve existing knowledge and technology with respect to coal gasification and liquefaction. Extensive research and development programs must be initiated in order to realize the potential of these sources.

Mr. Chairman, I urge adoption of the bill.

Mr. MIZELL. Mr. Chairman, in recent weeks, ever since President Nixon asked the American people to join in a national effort to conserve energy, the people have responded in a most admirable and most effective way.

This morning's Washington Post tells us that the energy conservation measures already in effect have been responsible for saving nearly 1.9 million barrels of oil a day, even without the stringent new controls being debated here today.

And the energy officials attribute these savings in large measures to a significant decrease in demand by the public, signifying a real effort by most Americans to do their share to alleviate this energy emergency.

Mr. Chairman, in view of these facts, and in view of the great attitude with which most Americans are approaching this emergency, I believe we should take a long pause before imposing overly restrictive measures on the people that may be unnecessary to the task of reducing energy consumption to acceptable levels.

Gasoline rationing and exorbitant taxes on gasoline are the options currently being bandied about as means to drastically cut fuel consumption.

But I believe that before we start imposing these kinds of programs, which would either be bureaucratic nightmares or woefully inequi-

table, we should give the people a chance to prove that they can reduce their own levels of energy consumption to a point consistent with the requirements of the present situation.

I believe we should first tell the people what levels of consumption we could tolerate, and then see if they can meet those levels voluntarily before going to programs that no one looks forward to either administering or following.

But if controls are put on consumption, we must make quite sure that those controls are applied as equitably as possible, with no segment of our society being asked to sacrifice more than another. As long as we are all in this situation together, I believe the people will continue to respond as they have responded. But if we create a system that metes out favoritism to some and punishment to others, we will have created a monster that can scarcely be controlled.

I am pleased to note that there is a section of this bill before us today that would prohibit discrimination against any sector of the economy, including the aviation industry, tourism and the traveling salesman.

Above all, we must make sure that the effects of this emergency on the Nation's economy are as negligible as possible. Accordingly, we must establish priorities that will insure that people can do their jobs and run their businesses with as little interference and interruption as possible.

Working toward these goals, I believe we can be successful in reducing our energy demands while we endeavor to increase our energy supplies to avoid similar emergencies and crises in the future. This is my confident hope and our common duty.

Mr. VIGORITO. Mr. Chairman, on December 13, 1973, I will be offering three amendments to H.R. 11450 as substituted by H.R. 11882:

AN AMENDMENT OFFERED BY MR. VIGORITO TO H.R. 11450

Page 29, delete line 4 through 12 inclusive.

This deletes section 115, Prohibitions on Unreasonable Allocation Regulations.

AN AMENDMENT OFFERED BY MR. VIGORITO TO H.R. 11450

Page 29, delete lines 13 through line 8 on page 32 inclusive.

This deletes section 116, Use of Carpools.

AN AMENDMENT OFFERED BY MR. VIGORITO TO H.R. 11450 AS SUBSTITUTED BY
H.R. 11882

At the end of the bill, add a new title as follows:

TITLE III—NONRETURNABLE BEVERAGE CONTAINER PROHIBITION
ACT

SEC. 301—To reduce energy waste which is caused by the production of non-returnable containers used for the packaging of soft drinks and beer, and to assure energy conservation, so that the essential needs of the United States are met, by banning such containers when they are sold in interstate commerce on a no-deposit, no-return basis.

SEC. 302—Finding and Purposes:

(a) The Congress finds that the utilization of returnable beverage containers would result in substantial energy savings.

(b) It is the purpose of this Act to assist in the solving of this energy situation by preventing the use and circulation of the offending types of non-returnable containers by banning their shipment and sale in interstate commerce.

SEC. 303—Definitions:

- (1) Returnable beverage container means a beverage container which
 - (a) has a refund value
 - (b) is not a metal container with a detachable opening in the container
 - (2) "beverage" means any variety of liquid intended for human consumption
 - (3) "container" means a bottle, jar, can or carton of glass, plastic or metal or any combination thereof, for use in packaging a beverage.

SEC. 304—(a) No person shall manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce any non-returnable container with respect to which no refundable money deposit is required from the consumer.

(b) Whoever violates subsection (a) of this section shall be fined not more than \$1,000 or imprisoned for not more than six months or both.

(c) The President or Chairman of the Interstate Commerce Commission shall establish such regulations as are necessary for the purpose of this Act.

Mr. DULSKI. Mr. Chairman, as we debate here today the provisions of the National Emergency Energy Act, I believe it is essential that we not lose sight of the overall aspects of the Nation's fuel and energy problem.

The Congress is and has been acting to provide the legislative authority needed for governmental action by the executive branch. We are giving the executive branch tremendous power—more power than any previous executive has had in our Nation's history.

In acting to deal with the apparent critical shortage of petroleum, our Government is imposing restrictions and requiring allocations that are having an impact on every segment of our economy.

Already, hundreds of thousands of jobs are in jeopardy; workers are being furloughed, some temporarily, others indefinitely. Businesses are closing down left and right, the smaller and less diversified are affected first, but others also are tottering.

The ramifications of the current energy crisis are staggering. It is essential that the side-effects of emergency steps are considered carefully before the steps are taken. And we should not stop there: we must maintain a never-ending vigilance to deal with unexpected side-effects that develop.

In these days of wonder drugs, it is sometimes said that the medicine can be worse than the disease. I hope the people responsible for new energy policies will leave their blinders at the racetrack and consider every prescription they recommend from the broadest possible view.

When the President outlined his proposed energy-saving measures only 3 weeks ago, my reaction then and now is that implementation of these proposals will cause unemployment and could lead to a recession.

Some 20 years ago when the construction of the long-debated St. Lawrence Seaway was being considered by Congress, a prominent labor leader from my home town, who opposed the seaway, warned that if built Buffalonians would be able to stand at the Port of Buffalo and wave to the ships as they pass by. His warning went unheeded. Our area's economy was shaken to the core. I would like to hope that our country will not be critically hurt economically by the steps we take to ease the current energy shortage.

Mr. Chairman, the current pinch is being blamed on the cutoff of oil supplies from the Mideast.

I was informed today that U.S. companies have an investment of \$2.5 billion in Mideast oil. This represents 45 percent of the total foreign investment. Yet, the United States is importing only 3 percent of oil leaving the Mideast. Why?

The United Kingdom has an investment of \$1 billion, but is importing 15 percent. France has an investment of \$600 million and imports 10 percent. Netherlands has a \$400 million investment and imports 10 percent. Japan has a \$500 million investment and imports 31 percent. Italy's investment is \$300 million and imports are 16 percent. Germany and Spain have no investments but import 12 and 5 percent respectively.

These figures are disturbing. The whole picture is not only disturbing, but really frightening. We are being asked to act here without complete understanding of what is at stake. The need for diligent oversight and close vigilance was never greater.

Mr. HARRINGTON. Mr. Chairman, I rise in support of H.R. 11450, the National Emergency Energy Act of 1973.

This legislation provides the executive branch broad powers to promulgate mandatory conservation measures for whole sectors of our society, allocate petroleum products among the Nation's consumers, and require wherever possible the use of coal rather than petroleum or natural gas for any major fuel-burning installation.

To permit the coordination of these actions without national anti-pollution standards, the bill permits the suspension of any fuel or emission limitation imposed on a stationary fuel-burning installation by the requirements of the Clean Air Act, if it is determined that the installations cannot obtain adequate amounts of low-polluting fuels.

Mr. Chairman, these features of H.R. 11450 leave many Members of Congress, including myself, feeling rather ambivalent for two reasons. First, while it is satisfying to me that Congress has acted quickly to respond to the energy crisis by designing ambitious programs, the vesting of enormous discretionary power in the hands of the Chief Executive, especially this Chief Executive, creates a clear possibility for abuse. Second, I take exception to Congress' decision, as reflected in this bill, to ask much less sacrifice of the major oil companies than of the consuming public.

On balance the legislation represents an acceptable contribution to meeting the current energy shortage and safeguards against abuses of the bill's powers do exist. For example, if the President employs his discretionary power to allocate end uses of petroleum products—which approaches rationing—he must also establish procedures whereby users can petition for review, reclassification, and modification of priorities and allocations granted.

Similarly, the Administrator of the Federal Energy Administration, the new executive branch agency created by this legislation pursuant to the President's request, is required to publish any proposed rule or order in the Federal Register, offering adequate opportunity for public comment and responsible revision. In cases where a rule or order is likely to have a substantial impact on the Nation's economy, the Administrator must also create an opportunity for the presentation of oral views, data, and arguments. Moreover, Congress must consider and approve any of the mandatory national conservation programs permitted by the bill.

The existence of these safeguards reduces the chances that this bill will be the "Bay of Tonkin Resolution" of the energy crisis, awarding almost dictatorial power without safeguards. However, these appeals provisions must be used to their fullest potential, to insure against the abuses of these emergency powers. And, despite the minimal standards which these procedures satisfy, the possibilities for abusing the powers granted by this bill are still quite real. Congress and the public will need to continuously monitor implementation of the sweeping programs authorized here this afternoon.

This brings me to the second area on which I would like to comment—Congress' failure in this bill to discipline the oil companies as much as the public. The President is given the discretion to require the production, and to order refineries to adjust their mix of products in order to yield relatively more heating oil.

However, this bill addresses a purported national emergency without addressing the problem of rising consumer prices and resulting wind-fall corporate profits. It addresses the emergency without requiring the oil companies to volunteer the information on reserves and costs in the absence of which it is impossible to verify whether a company is operating at its "maximum efficient rate of production." And it addresses the emergency by preserving the "production incentives" for the major oil companies under phase IV. At the same time, it omits any provision of funds to aid companies threatened with closing because of their energy needs, funds to create public service employment programs or to increase unemployment compensation aid, or funds to help economically marginal families who cannot afford to pay the increased price of fuel.

Instead, this legislation addresses the emergency by providing an exemption to the antitrust laws for oil company executives who participate in implementing the allocation programs. [Sec. 120.] The exemption is qualified and hedged by reporting requirements, but in turn, these safeguards are themselves qualified and do not apply to every exchange to which the executives might be parties.

Quite obviously, Mr. Chairman, I view H.R. 11450 as only a first step toward solving the energy crisis, even in the short term.

The problems of adequate information from the oil companies, adequate protection against antitrust abuses, and effective programs to hold down prices and preserve jobs will continue unmet after we pass this bill. It seems to me that some of the most critical aspects of our current emergency lie in precisely these areas. This is the beginning—but only the beginning. I sincerely hope that none of my colleagues believe passing this legislation fulfills our obligation to address the energy and economic crises we face.

Mr. MEZVINSKY. Mr. Chairman, in the past few weeks there have been plenty of recriminations about who is to blame for our being backed up to the wall by the energy crunch. The President opened the attack with his November energy message charging that Congress had neglected his warnings and advice. Members of both Houses shot back with the charge that the opposite was actually the case.

If hot air could heat our homes and run our cars and tractors and businesses and industries, we would not need energy legislation now.

The fact is that bickering between the branches is not going to solve the problems we face. However, I certainly agree that we have a duty

to take a hard look at the causes which have brought us to this dangerous energy practice.

There are serious questions and charges pending concerning the role of giant oil companies in the events which resulted in the energy problem we face today.

I was out in the First District of Iowa this past weekend and held open town meetings to talk with the people about the energy problem. Time and again, at these meetings and in the mail I have been receiving in the past weeks, the people of Iowa have voiced their concern that the oil companies wield too much power and may be at the very root of the fuel shortage. Gas station owners and operators have told me they believe the "big boys" are trying to squeeze them out of business and consumers have contended—citing oil companies rising profits as evidence—that this energy emergency might be a tactic for the oil companies to make a buck.

For these reasons, the relaxation of antitrust regulations proposed in the bill before us seems absurd. [Sec. 120.] Right now, when the FTC has antitrust suits pending against several oil companies, this bill would provide broad immunity from the laws which the companies are suspected of violating.

It seems to me that this provision—proposed as a means to solicit the aid of the oil companies in solving a crisis they may have created—is like inviting the suspected fox to dream up a security plan for the chicken coop.

I believe we must strengthen the antitrust provisions in this bill and for this reason I strongly support the amendment which will be offered by Chairman Staggers on behalf of Chairman Rodino which will accomplish this goal by eliminating the possibility of secret collusion by the oil companies.

When I was in Iowa last weekend, we were talking about what fuel shortages mean to the people, and industries, and business and farms.

One point that came through loud and clear at those meetings is that the people of the First District recognize the seriousness of the problem. They are willing to do their share to meet the energy crisis. They are willing to sacrifice, as long as any sacrifices are necessary and equitably spread around.

But there is an undercurrent of anxiety that the sacrifices and other remedies called for by the Government may not be fair—that some might profit while the majority sacrifice and shiver through this winter. Of course, this is in no way shocking considering the battering that public confidence in Government has taken in recent months.

The people I talked with want the energy crisis handled in a way that eliminates as many problems and as much damage as possible. And, they are looking to Congress to do that job for them.

Mr. HAMMERSCHMIDT. Mr. Chairman, although I am deeply concerned over our Nation's energy situation I could not cast an affirmative vote for passage of the National Emergency Energy Act, H.R. 11450.

Foremost among my reasons is the speed with which Members of the House were expected to consider this complex and comprehensive package which may yield far-reaching Federal authority which could penetrate into the private lives of American citizens. I have full appreciation for the serious hard work of the Interstate and Foreign Com-

merce Committee and their intensive study and many days of hearings in which they received testimony from Government officials, representatives of the private sector, and concerned citizens. However, as of last night a copy of the legislation as approved by the Committee was not available for perusal or scrutiny by Members of Congress not serving on that distinguished committee, and we were not afforded the opportunity for even a preliminary study of the committee's report. The 3-day rule for consideration of a legislative measure after the report is filed was waived, presenting most difficult circumstances for an individual Representative to make an intelligent decision on the merits of the proposal.

Although I voted for the rule bringing the bill to the floor, it is my great fear that we are legislating imprudently. I recognize the pressing need for affirmative action by Congress in coming to grips with specific actions to meet the Nation's need for fuel and to set guidelines for conservation measures. However, I am apprehensive about such rapid full House action, even in view of the depth of the committee study.

I have full faith in the willingness and ability of the American people to commit, as they have so many times in the past, to take meaningful immediate steps voluntarily to meet a crisis. I do not argue against the need for authority in establishing priorities and to relieve hardships brought forward by market dislocations. The legislation we are considering would take us very deep into the realm of Federal authority which I am afraid, like economic stabilization measures, once we get into it it is almost impossible to work our way out. We would be creating a new independent regulatory agency; we would be authorizing the compilation of plans to restrict public and private consumption of fuel; we would be directing the evaluation of the utility industry on a plant by plant basis. The ICC, the CAB and the Federal Maritime Commission would gain authority and the FTC could get involved into areas of private enterprise such as store operating hours. At a time when our cities' mass transportation systems are losing money due to lack of sufficient ridership, we would establish an Office of Car Pool Promotion and give them \$25 million to develop carpooling programs. H.R. 11450 has provisions concerning antitrust statutes and would amend certain environmental standards and would institute several new civil penalties and criminal violations. And all of this is set forth in a bill of which the final version was filed at midnight on December 10, brought to Rules Committee on December 11, and scheduled for floor action on December 12. In my judgment, this is not responsible legislative procedure.

In summary, H.R. 11450 grants sweeping powers to the President, it addresses areas of private enterprise where literally millions of Americans' jobs are involved and it would amend many major laws to take us further and further away from the free market situation on which the Nation was built.

Certainly I am no expert in this complex matter. To be one would take more knowledge and time in evaluating available statistics that I or my staff possesses. Even sorting our various conflicting statements on what the real energy condition is would be a formidable task.

However, my general feeling is that much of the end product of this bill, no matter what form it takes, will be counterproductive—toward

the best interest of people effected and toward the best solution in producing more fuel for them.

In my judgment, two constructive steps for immediate action toward relieving the energy situation would be a removal of price controls from fuel and a careful watch on oil company profits. These basic actions would tend to move us in the direction of a free market situation. I am convinced that restoring incentives into our system of enterprise will realize the benefits of our great American ingenuity which has made this Nation the greatest.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment in the nature of a substitute for the entire text of H.R. 11450, the text of H.R. 11882.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Staggers: Strike out all after the enacting clause and insert:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

TABLE OF CONTENTS

TITLE I—ENERGY EMERGENCY AUTHORITIES

Sec. 101. Purpose.

Sec. 102. Definitions.

Sec. 103. Amendments to the Emergency Petroleum Allocation Act of 1973.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BROYHILL of North Carolina. Mr. Chairman, I object to that.

The CHAIRMAN. Objection is heard.

The Clerk will read.

Mr. BROYHILL of North Carolina. Mr. Chairman, I have an amendment to **section 103**.

The CHAIRMAN. The Chair feels that the Chair should explain to the Committee that under the rule the whole of the text of H.R. 11882 will be read before any amendment is in order. It will not be read by sections.

PARLIAMENTARY INQUIRIES

Mr. BROYHILL of North Carolina. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROYHILL of North Carolina. Mr. Chairman, my parliamentary inquiry is: Does that mean that after the entire text of the bill has been read that amendments referring to any place in the bill would be in order?

The CHAIRMAN. The Chair will state that that is correct.

Mr. BROYHILL of North Carolina. Mr. Chairman, a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his further parliamentary inquiry.

Mr. BROYHILL of North Carolina. Mr. Chairman, does that mean that amendments to sections as they are read may not be offered at that time?

The CHAIRMAN. The Chair will state that the whole of the text of the amendment in the nature of a substitute will be read before any amendments are in order. It is one amendment. When that is done, when the entire amendment in the nature of a substitute has been read, that is, the entire text of H.R. 11882 has been read, then amendments will be in order to all of the text.

The Chair will further state that the Chair will attempt to deal with the problem of amendments when that time arrives, and will attempt to do so in an orderly fashion.

Mr. BROYHILL of North Carolina. Mr. Chairman, a further parliamentary inquiry, or perhaps this is not a parliamentary inquiry, but I would ask the Chairman if there is any way in which we can have an orderly procedure for the offering of amendments, starting at the first part of the amendment in the nature of a substitute, and going through the bill, rather than jumping all over the whole bill for amendment purposes?

The CHAIRMAN. The Chair will state that the Chair, with the co-operation of the Members, will attempt to achieve that purpose. The Chair will say that if permitted by the Membership to do so, that the Chair proposes to bring order into the situation by following the usual custom of recognizing the members of the committee alternately, from one side to the other, more or less in their order on the committee.

Mr. BROYHILL of North Carolina. I thank the Chairman.

The CHAIRMAN. Does the gentleman from West Virginia renew his unanimous-consent request?

Mr. STAGGERS. I do Mr. Chairman. I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BROYHILL of North Carolina. Mr. Chairman, further reserving the right to object, I will yield to the gentleman from Iowa for an inquiry.

Mr. GROSS. I would ask the Chairman whether there could be some understanding that those who offer amendments will be recognized as we go along, rather than to recognize members of the committee exclusively? So that we can go through this bill in some kind of an orderly fashion, instead of going to section 103, and then to the Lord knows what the last section of the bill may be? Could there be some understanding that they could be recognized in that fashion?

Mr. STAGGERS. Of course, it is within the power of the Chairman who is presiding, but I would ask unanimous consent that we amend the bill section by section as we go along, saying that each section is open for amendment at any point.

The CHAIRMAN. The Chair would have to state that he is afraid that that is not a proper request at this time. The rule that was adopted by the House provides for a procedure, and while most Members feel that any unanimous consent request will do anything, the Chair has a charge from the House, simply by being the Chair, to protect the Rules of the House. The Chair has stated the way in which he will try to provide for an orderly procedure, but the rule provides for a procedure, and bringing order out of that procedure will have to be within the rule.

Mr. BROYHILL of North Carolina. Mr. Chairman, reserving the right to object, would it be in order to read the first title and then open the first title to amendment and complete that before going on?

The CHAIRMAN. Not under the rule adopted by the House under which the Committee is now operating. The rule adopted by the House is clear. The text of the amendment in the nature of a substitute, that being the bill H.R. 11882, has to be read in full.

Mr. BINGHAM. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from New York will state it.

Mr. BINGHAM. Mr. Chairman, would it be in order for the Chairman to recognize Members offering amendments in the order in which those amendments appear in the amendment in the nature of a substitute. If he advised, for example, that an amendment is to be offered to **section 3** by the gentleman from North Carolina, will he give priority to that gentleman, and to the extent that the Chair is advised as to which sections amendments apply, will he follow the order of the sections in recognizing Members? Would that be in order?

The CHAIRMAN. The Chairman can say that there is a solution that might achieve that result. A great many of the amendments already at the desk are from those who would be recognized first—members of the committee. If the members of the committee will proceed by self-discipline in that fashion, the situation will then work out. The only solution that the Chair can see is for the members of the committee who have amendments to the first part of the first title to rise first, and the rest not rise, and proceed in that fashion.

The Chair recognizes the situation.

Mr. BINGHAM. Mr. Chairman, I have a further parliamentary inquiry. If the Chair is advised that nonmembers of the committee have amendments to early sections, would he be free to recognize nonmembers of the committee before recognizing other members of the committee for amendments to a later section.

The CHAIRMAN. The custom of the House, and the almost unailing custom of the House, is to recognize members of the committee, alternating sides from the majority to the minority. The Chair does not propose to discuss the philosophy of that custom, but that is the custom.

Is there objection to the request of the gentleman from West Virginia?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, I should like to inquire, if the request of the gentleman is accepted and there is no objection to it, when it would be timely for the amendment made in order by the rule to the text of the substitute to be offered, that amendment being H.R. 11891, which would be the amendment, as the rule prescribes, to H.R. 11882?

The CHAIRMAN. The Chair would repeat what the Chair has already said. The Chair would recognize Members to offer amendments as they are reached in the customary procedure of the House.

There is no particular priority, there is no special priority given to that amendment but the gentleman is a member of the committee and he ranks on the committee and the chair would seek to reach him in an orderly fashion.

Mr. BROWN of Ohio. Mr. Chairman, I withdraw my reservation of objection.

Mr. MYERS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MYERS. Mr. Chairman, under the rule we are operating on now, later tonight when there is consideration of the amendment to the later sections of the bill, would it still be in order to recognize somebody for amendment of an earlier section which had been already passed over?

The CHAIRMAN. We could not amend text that had been amended but an unamended portion would still be open to amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROYHILL of North Carolina. Mr. Chairman, would that mean another amendment to another part of that section would not be in order?

The CHAIRMAN. The gentleman is getting the Chair into a position where he cannot answer a theoretical question because there are so many different variations. If under the rules of the House a particular section would still be in an amendable condition, the Chair would have to recognize a Member to offer a proper amendment. It might be a situation where the amendment would have been amended and it would not be in order to further amend it. The Chair cannot project all the different variations and possibilities and must meet them as they arise.

Mr. BROYHILL of North Carolina. Mr. Chairman, another parliamentary inquiry and then I will be through. Would it not be possible to ask unanimous consent that the substitute be considered as read and then have a unanimous-consent agreement that we would then go back and read the substitute section by section without having to call up each section one at a time?

The CHAIRMAN. The Chair would not feel that under the present customs of the House, the House having adopted a rule, that he could entertain such a motion to modify the rule.

Mr. HAYS. Mr. Chairman, reserving the right to object, I make this reservation merely to observe the truth of what somebody said earlier, that almost nobody knows what is in this bill and that probably by 6 o'clock this evening the House would be sufficiently confused that a motion for the Committee to rise and strike the enacting clause would be one that the majority of the Members could vote for.

I just make that observation and withdraw my reservation of objection.

The CHAIRMAN. Could the Chair make a brief statement. This is not an unusual amendment situation. The Chair would point out to the Members that this is often the situation in which the Committee finds itself.

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I want to be sure I understand the gentleman correctly. Will only one amendment per section now be in order if we accept this procedure the gentleman proposes?

The CHAIRMAN. There is no special treatment involved here. The general rules provide for certain procedures. For example, one rule is that if a section is amended by a complete substitute, it is not subject to further amendment. But we are operating under the rules of the House and if there is a section that is amendable it will continue to be amendable until the final process is over, but there are certain circumstances under which a section having been amended is no longer amendable. That would be the general limitation, but we are going to operate under the general rules of the House in as orderly a fashion as the Chairman and the Members of the House are capable of producing.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, I also wish to see if I understand the situation clearly.

The Chair is saying that under the rule there is no way that he could have the whole substitute read on a section-by-section basis because it is approved or it falls as a substitute and then as a substitute is open at any point to amendment, and the House procedures on amending the substitute would apply. Is that correct?

The CHAIRMAN. That is correct, and the reason for that, the Chair will add, is that the House adopted that procedure before it went into the Committee of the Whole.

Mr. BROWN of Ohio. The members of the Committee on Interstate and Foreign Commerce will be recognized with priority and, alternately, between the two sides of the aisle and that then if a member of the committee should yield to another Member, it would be possible for amendments to be lodged against any part of the bill, providing those amendments were not precluded by previous action on the substituted by amendment procedure.

The CHAIRMAN. The gentleman has described the orderly and usual procedure and that is the procedure that the Chair will attempt to follow as much as possible.

Mr. BROWN of Ohio. Mr. Chairman, I withdraw my reservation of objection.

Mr. LEGGETT. Mr. Chairman, reserving the right to object, I would just like to observe that under the procedure that the Chairman has prescribed as regular that if a substitute is accepted, then we will be limited to some 24 sections in **title I** and 9 sections in **title II**, for a total of 33 sections, which would indicate then that we would have a limitation of some 33 amendments or amendments thereto, which would be in order, since we can only amend a section at one time. Is that the understanding of the Chair?

The CHAIRMAN. No. There are many other ways in which amendments could be offered besides that described by the gentleman from California. The normal procedure will be followed. There are a variety of ways in which an amendment could be offered.

Mr. LEGGETT. But if the Chairman says a section is touched by an amendment, that section is wiped out by further amendment?

The CHAIRMAN. The Chair has never said that. The Chair has said when an amendment to a section is adopted and is in a form which

precludes further amendment to that section, that that section would be further amendable.

The Chair did not say that happened any time an amendment to a section was adopted.

Mr. LEGGETT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. Bennett).

Mr. BENNETT. Mr. Chairman, reserving the right to object, maybe this will not be helpful, but as I listened to the description it seems to me there is a way out and that would be for the clerk to furnish the Chair the amendments in the order in which they appear in the new bill and then the Chair could tentatively recognize the man who had the next amendment up and say that if there are no members of the committee who want to be recognized at this point, the gentleman will be recognized.

I cannot imagine the members of this Committee wanting to throw the House into turmoil.

Therefore, I would assume that members of the committee would not insist on being heard out of line, and if they did, it would allow calamity in one or two cases. This would permit us to proceed line by line through the bill.

The CHAIRMAN. I am grateful for the suggestion of the gentleman from Florida. With the cooperation of the members, this situation could be resolved in a manner similar to that suggested.

Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The remainder of the amendment in the nature of a substitute is as follows:

- Sec. 104. Federal Energy Administration.
- Sec. 105. Energy conservation.
- Sec. 106. Coal conversion and allocation.
- Sec. 107. Regulated carriers.
- Sec. 108. Delegation of authority.
- Sec. 109. Administration.
- Sec. 110. Prohibited acts.
- Sec. 111. Enforcement.
- Sec. 112. Grants to States.
- Sec. 113. Fair marketing of petroleum products.
- Sec. 114. Voluntary energy conservation agreements.
- Sec. 115. Prohibitions on unreasonable allocation regulation.
- Sec. 116. Use of carpools.
- Sec. 117. Restrictions on windfall profits.
- Sec. 118. Importation of liquified natural gas.
- Sec. 119. Development of additional electric power resources.
- Sec. 120. Antitrust provisions.
- Sec. 121. Comprehensive review of export and foreign investment policies.
- Sec. 122. Employment impact and worker assistance.
- Sec. 123. Exports.
- Sec. 124. Report and termination date.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

- Sec. 201. Suspension authority.
- Sec. 202. Implementation plan revisions.
- Sec. 203. Motor vehicle emissions.
- Sec. 204. Conforming amendments.

- Sec. 205. Protection of public health and environment.
- Sec. 206. Energy conservation study.
- Sec. 207. Reports.
- Sec. 208. Recommendations for siting of energy facilities.
- Sec. 209. Fuel economy study.

TITLE I—ENERGY EMERGENCY AUTHORITIES

Sec. 101. PURPOSE.

The purpose of this Act is to call for proposals for energy emergency conservation measures and to authorize specific temporary emergency actions to be exercised to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable, (1) is consistent with existing national commitments to protect and improve the environment, (2) minimize any adverse impact on employment, (3) provides for equitable treatment of all sectors of the economy, and (4) maintains vital services necessary to health, safety, and public welfare.

Sec. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Administration.

Sec. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:

"(h) (1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with, the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitle. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, educational, health care, hospitals, public safety, energy production, agriculture and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

"(2) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product in such manner and in such amounts to permit such users to obtain any such oil or product based upon such entitlements.

"(3) The President shall provide for procedures by which any user of such oil or product for which priorities and entitlements are established under paragraphs (1) and (2) of this subsection may petition for review and reclassification or modification of any determination made under such paragraphs with respect to his priority or entitlement. Such procedures may include procedures with respect to local boards as may be established pursuant to section 109(c) of the Energy Emergency Act.

"(4) The President may, by order or rule (which rule shall be deemed a part of the regulation under subsection (a)) require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum products produced through such operations if he finds that such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions necessary to attain the objectives of subsection (b) of this section.

"(5) The President shall consult with the Department of Labor, and if there is an increase in the level of unemployment from the level of unemployment in 1973 based upon the average 1973 figures and such increase reasonably results from energy shortages, then the President is urged to take such actions consistent with the provisions of this Act, as he is authorized to take under this Act and any other Acts to encourage full production by the domestic energy industry at levels of investment return which make possible the expansion of facilities required to assure against a protraction in any such increased levels of unemployment.

"(6) For purposes of this subsection, the term 'allocation' shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

"(1) (1) the President may, by order, require the production of crude oil at the producer level at the maximum efficient rate of production.

"(2) The President shall consult with the Department of Interior and with appropriate State governments in order to determine which producers should be reasonably required to produce crude oil at the rates specified in paragraph (1) of this subsection.

"(3) For purposes of this subsection, maximum efficient rate with respect to any oilfield other than oilfields on Federal lands shall be such rate as is determined by the State in which such oilfield is located, and with respect to any oilfield on Federal land shall be such rate as is determined by the Department of the Interior, except that the President may establish after consultation with such State (or with the Department of the Interior, in the case of any oilfield on Federal lands) a maximum efficient rate higher than the rate established by the State or by the Department of the Interior if he determines that such higher maximum efficient rate will not unreasonably impair the ultimate recovery of crude oil or natural gas from any such oilfield under sound engineering and economic principles.

"(4) The President shall direct the appropriate Federal agency to require that all existing and future development plans for oilfields involving Federal leases, permits or other arrangements for production of crude oil on Federal lands shall include or be amended to include effective provisions for the secondary recovery of crude oil, and, to the greatest extent technologically possible consistent with sound engineering and economic principles, for the tertiary recovery of crude oil, before the well is abandoned.

"(j) Notwithstanding any other provision of this act, or any provision of State or local law with respect to the allocation of gasoline or diesel fuel, there shall be provision for adequate supplies of gasoline, diesel fuel related products for essential and purposeful mobility of persons in the armed services of the United States on military orders, for household moves related to employment or displacement due to unemployment, and for moves due to health, educational opportunities, or other good and sufficient reasons."

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(1) fuels, and

"(2) minerals essential to the requirements of the United States, and for required transportation related thereto;"

(c) Section 4(c)(3) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "or" immediately before "(B)" and by inserting immediately before the period at the end thereof the following: ", or (C) to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to the date of enactment of this Act as a result of unusual regional climatic variations within the United States".

(d) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

Sec. 104. FEDERAL ENERGY ADMINISTRATION.

(a) There is hereby established a Federal Energy Administration, to be headed by a Federal Energy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator may be removed by the President for cause. The Administrator shall serve for

a term ending on May 15, 1975. Vacancies in the office of Administrator shall be filled for the remainder of the term of the original Administrator, in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under section 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by sections 103, 117, and 118 of this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice) are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d) Section 27(k) of the Consumer Product Safety Act shall apply to the Administrator. The Federal Energy Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44 United States Code.

Sec. 105. ENERGY CONSERVATION PLANS.

(a) Withing 30 days of the date of enactment of this Act and from time to time thereafter, the Administrator shall propose one or more energy conservation plans which shall be designed to supplement and be coordinatel with actions taken and proposed to be taken under other authority of this or other Acts to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section the term "energy conservation plan" means proposed plans for transportation controls (including highway speed limits, and plans for maximizing car pooling arrangements in all communities and business where applicable), priority allocation plans for energy conserving recyclable raw materials for use within the United States, or such other restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption. The Administrator shall submit such plans to the Congress for appropriate action.

(b) Energy conservation plans shall provide for the maintenance of vital services (including new housing construction, educationl, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

(c) Plans submitted by the Administrator pursuant to subsection (a) of this section shall provide that, to the maximum extent practicable, proposed restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restrictions on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof.

Sec. 106. COAL CONVERSION AND ALLOCATION.

(a) PROHIBITION OF USE OF NATURAL GAS AND PETROLEUM PRODUCTS BY CERTAIN USERS.—The administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in subsection (b) of this section until January 1, 1980. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact.

A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator may require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would be unreasonable or would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether a conversion requirement under this subsection is unreasonable, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the availability of compensation or tax relief for any capital loss incurred through such conversion requirement.

(b) **USE OF COAL.**—

(1) Except as provided in paragraph (2), any electric powerplant (A) which is prohibited from using petroleum products or natural gas by reason of an order issued under subsection (a), and (B) which converts to the use of coal, shall not, until January 1, 1980, be prohibited from burning coal which is available to such source by any fuel or emission limitation, if the Administrator of the Environmental Protection Agency approves, after notice to interested persons and opportunity for presentation of views (including oral presentation), a plan submitted by the person who operates such plant. A plan submitted under the preceding sentence shall be approved only if it provides (A) that such plant shall make such use of control technology as may be necessary to enable such plant to come into compliance with the fuel or emission limitation to which the suspension applied, as expeditiously as practicable; (B) for a schedule described in section 119(a) (2) (A) (iii) of the Clean Air Act (excluding section 119(a) (2) (B) (i)); and (C) that such plan will, during the period beginning on the effective date of the approval of the plan and ending at the time such plant complies with such stationary source of fuel or emission limitation, comply with interim requirements which the Administrator of the Environmental Protection Agency shall prescribe to assure that such source will not materially contribute to a significant risk to public health. Such Administrator shall approve any such plan before May 15, 1974, or if later 60 days after such plan is submitted.

(2) Nothing in paragraph (1) shall prohibit the Administrator of the Environmental Protection Agency or a State or local agency, to the extent practicable after notice to interested persons and opportunity for presentation of views (including oral presentations), (A) from prohibiting the use of coal by such a source to which paragraph (1) applies if such Administrator or any such agency determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; or (B) from requiring such source to use a particular grade of coal of any particular type, grade, or pollution characteristic, if such coal is available to such source.

(3) For purposes of this subsection, the term "fuel or emission limitation" means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation (including the Clean Air Act) and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels).

(c) **COAL ALLOCATION AUTHORITY.**—The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in section 4(b) of the Emergency Petroleum Allocation Act of 1973 and of section 205 of this Act. Any rule prescribed under this subsection shall be deemed to be part of the regulation.

(d) **EXPIRATION.**—The authority under this section (other than subsection (b)) shall expire on May 15, 1975.

Sec. 107. REGULATED CARRIERS.

(a) **AGENCY AUTHORITY.**—The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any

action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier or property which require excessive travel between points with respect to which such motor common carrier is authorized by the Commission to provide service. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) REPORTS.—Within sixty days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975, while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

- (1) the type of regulatory authority needed;
- (2) the reasons why such authority is needed;
- (3) the probable impact on fuel conservation of such authority;
- (4) the probable effect on the public convenience and necessity of such authority; and
- (5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

Sec. 108. DELEGATION OF AUTHORITY.

The Administrator may delegate all or any of his functions under this Act or the Emergency Petroleum Allocation Act of 1973 to any officer or employee of the Federal Energy Administration as he deems appropriate. The administrator may delegate any of his functions relative to implementation of regulations and energy conservation plans under this Act or the Emergency Petroleum Allocation Act of 1973 to officers of a State, or to State or local boards of balanced composition reflecting the makeup of the community as a whole. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed, effective on the effective date of transfer of functions under such Act to the Administrator.

Sec. 109. ADMINISTRATION.

(a) ADMINISTRATIVE PROCEDURE.—

(1) Subject to paragraph (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title except with respect to any rule or order pursuant to section 107 of this Act, section 205 (a), (b), (c), and (d) of this Act, or section 4(h) or 4(i) of the Emergency Petroleum Allocation Act of 1973, or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) **JUDICIAL REVIEW.**—Any interested person (including a State or political subdivision thereof) may obtain judicial review of any rule or order described in subsection (a) (1) of this section in accordance with chapter 7 of title 5, United States Code. Review of a rule may be obtained in the Temporary Emergency Court of Appeals. Review of a rule or order shall be pursuant to the procedures of section 211 of the Economic Stabilization Act of 1970.

(c) **LOCAL BOARDS.**—

(1) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

Sec. 110. PROHIBITED ACTS.

It shall be unlawful—

(1) for any person, who is engaged in the business of marketing or distributing diesel fuel to trucks on bona fide cargo runs, to deny to such trucks full fill-ups of fuel, unless—

(A) there is in effect under this Act, the Emergency Petroleum Allocation Act of 1973, or any other Act an end-use allocation regulation which restricts such full fill-ups by such person to such trucks, or

(B) such person has no such fuel available for sale;

(2) to violate any order under section 106;

(3) to violate any rule under the first sentence of section 123; or

(4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117 of this Act.

Sec. 111. ENFORCEMENT.

(a) **CRIMINAL PENALTY.**—Whoever willfully violates any provision of section 110 shall be fined not more than \$5,000 for each violation.

(b) **CIVIL PENALTY.**—Whoever violates any provision of section 110 shall be subject to a civil penalty of not more than \$2,500 for each violation.

(c) **INJUNCTIVE AND OTHER RELIEF.**—Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any provision of section 110, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with such provision of section 110.

(d) **PRIVATE RELIEF.**—Any person suffering legal wrong because of any act or practice arising out of any violation of section 110 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

Sec. 112. GRANTS TO STATES.

There are authorized to be appropriated such sums as may be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe.

Sec. 113. FAIR MARKETING OF PETROLEUM PRODUCTS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"Sec. 113. FAIR MARKETING OF PETROLEUM PRODUCTS.

"Sec. 8. (a) As used in this section:

"(1) The term 'commence' means commence between a State and a point outside such State.

"(2) The term 'marketing agreement' means that portion of an agreement or contract between a refiner and a branded independent marketer (A) which authorizes such marketer to market or distribute refined petroleum products using a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner, or (B) which authorizes such marketer to occupy premises owned, leased, or in any way controlled by a refiner, for the purposes of marketing or distributing refined petroleum products, or (C) which authorizes both.

"(3) The term 'person' means an individual or a corporation, partnership, joint-stock company, business trust, association, or any organized group of individuals whether or not incorporated.

"(4) The term 'refiner' includes any person (other than a branded independent marketer) who controls, is controlled by, or under common control with, a refiner. For purposes of the preceding sentence, the term 'control' does not include control solely by means of a supply contract.

"(5) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any organized territory or possession of the United States.

"(6) The term 'to terminate' includes to cancel or to fail to renew.

"(b) The following conduct is prohibited:

"(1) A refiner shall not terminate a marketing agreement unless he furnishes prior notification pursuant to this paragraph to each branded independent marketer to which such termination applies. Such notification shall be in writing and shall be accomplished by certified mail to each such marketer; shall be furnished not less than ninety days prior to the date on which such agreement will be terminated; and shall contain a statement of intention to terminate together with the reasons therefor, the date on which such termination shall take effect, and a statement of any remedy or remedies available to such marketer under this section, together with a summary of the provisions of this section.

"(2) A refiner shall not terminate a marketing agreement unless the branded independent marketer to which such termination applies failed to comply substantially with one or more essential and reasonable requirements of such marketing agreement or failed to act in good faith in carrying out the terms of such agreement; except that such refiner may terminate such agreement if he does not, during the 3-year period which begins on the date of such termination, engage in the sale of any refined petroleum product in commerce for sale other than for resale in any relevant market within such branded independent marketer operated.

"(c)(1) A branded independent marketer may maintain a suit under this section against a refiner who engages in conduct prohibited by subsection (b), whose actions affect commerce, and whose products he sells or has sold, directly or indirectly, under a marketing agreement.

"(2) The court may award to any branded independent marketer actual damages resulting from the termination of a marketing agreement together with such equitable relief (including interim equitable relief and punitive damages) as may be appropriate, including declaratory judgments and mandatory or prohibitive injunctive relief. The court may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

"(d) A suit under this section may be brought in the district court of the United States for any district in which the plaintiff resides, is found, or is doing business, without regard to the amount in controversy. No suit shall be maintained under this section unless commenced within four years after the date of the termination of such marketing agreement."

Sec. 114. VOLUNTARY ENERGY CONSERVATION AGREEMENTS.

(a) Within fifteen days of the date of enactment of the Act, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which retail or service establishments may develop and implement voluntary agreements to promote energy conservation by limiting the operating hours of such retail or service establishments, adjusting retail store delivery schedules, and by taking such other actions as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, by rule determines to be necessary and appropriate to accomplish the objectives of this Act.

(b) The standards and procedures under subsection (a) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(i) A written copy of any agreement under this section shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection;

(ii) Meetings held to develop and implement an agreement under this section shall permit attendance by interested persons and shall be preceded by timely notice to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(iii) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings; and

(iv) A written summary of the proceedings of any such meeting together with copies of any written data, views, and arguments presented by interested persons shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection.

(c) Actions taken in good faith, in accordance with this section and rules promulgated hereunder, to develop and implement a voluntary energy conservation agreement shall not be construed to be within the prohibitions of the anti-trust laws of the United States, the Federal Trade Commission Act, or similar State statutes.

(d) Any voluntary agreement entered into pursuant to this section shall be submitted in writing to the Attorney General 10 days before being implemented. The Attorney General, at any time, on his motion or upon the request of any interested person, may disapprove any such voluntary agreement and thereby withdraw prospectively the immunity conferred by subsection (c).

(e) As used in this section—

(i) The term "voluntary agreement" shall not pertain to, or govern the conduct of, activities relating to the marketing and distribution of any petroleum product.

(ii) The term "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or both) is not for resale and is recognized as retail sales or services in the particular industry, as determined by the Attorney General.

(f) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President at least once every six months a report on the impact on competition and on small business of the voluntary agreements authorized by this section.

(g) The authority granted by this section (including any immunity under subsection (c)) shall terminate on May 15, 1975.

Sec. 115. PROHIBITIONS ON UNREASONABLE ALLOCATIONS REGULATIONS.

Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users.

Sec. 116. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government;

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of \$25,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(h) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

Sec. 117. RESTRICTIONS ON WINDFALL PROFITS.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 103 of this Act) is further amended by adding at the end thereof the following new subsection:

"(k) (1) The President shall exercise his authority under this Act and under the Economic Stabilization Act of 1970 so as to specify prices for sales of crude oil, refined petroleum products, residual fuel oil, and coal, produced in or imported into the United States, which avoid windfall profits by sellers.

"(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, refined petroleum products, residual fuel oil, or coal, permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the 'Board') for a determination under subparagraph (A) or (B) or paragraph (3).

"(3) (A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of crude oil, any refined petroleum product, residual fuel oil, or coal, permits sellers thereof to receive windfall profits. Upon a final determination of

the Board that such price permits windfall profits to be so received, it shall specify a price for the sales of such item which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified for sales of such item (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

“(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of crude oil, any refined petroleum product, residual fuel oil, or coal, permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller the items the price of which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order, for the purpose of refunding such profits, the seller to reduce the price for future sales of the item the price of which resulted in windfall profits, to create a fund against which previous purchases of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

“(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

“(4)(A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

“(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

“(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

“(6) For the purposes of subparagraph (B) of paragraph (3), the term ‘windfall profits’ means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of crude oil, any refined petroleum product, residual fuel oil, or coal, determined by the Board to be in excess of the lesser of—

“(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

“(i) the reasonableness of its costs and profits with particular regard to volume of production;

“(ii) the net worth, with particular regard to the amount and source of capital employed;

“(iii) the extent of risk assumed;

“(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

“(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

“(B) the greater of—

“(i) the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971; or

“(ii) the average profit obtained by the particular seller for the particular item during such calendar years.

“(7) Except as provided in paragraph (4), for the purposes of this subsection, the term ‘windfall profits’ means profit in excess of the average profit

obtained by all sellers for the particular item during the calendar years 1967 through 1971.

"(8) For the purposes of this subsection, the term 'interested person' includes the United States, any State, and the District of Columbia."

(b) Notwithstanding any other provision of law, administrative proceedings before the Board under section () of the Emergency Petroleum Allocation Act of 1973 shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceeding shall be reviewed in accordance with chapter 7 of such title.

Sec. 118. IMPORTATION OF LIQUIFIED NATURAL GAS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"Sec. 9. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquified natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquified natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

Sec. 119. DEVELOPMENT OF ADDITIONAL ELECTRIC POWER RESOURCES.

Not later than ninety days after the date of enactment for this Act, the President shall prepare and submit to Congress a plan for the development of the hydroelectric power, solar energy, and geothermal resources of the United States by Federal and non-Federal interests. Such a plan shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power, solar energy, and geothermal resources, including tidal power and pumped storage.

Sec. 120. ANTITRUST PROVISIONS.

(a) Except as specifically provided in this section, no provision of this Act shall be deemed to confer any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust" laws includes—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 14, 1914 (15 U.S.C. 12 et seq.);

(3) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(4) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. 1), shall in all cases be chaired by a regular full-time Federal employee, and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and shall be taken and deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing any petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the

Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(i) Such voluntary agreements and plans of action shall be developed by committees, councils, or other groups which include representatives of the public, and shall in all cases be chaired by a regular full-time Federal employee;

(ii) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(iii) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings;

(iv) Except as provided in (v) below, a full and complete verbatim transcript shall be kept of any meeting held to develop a voluntary agreement or a plan of action under this subsection and shall be taken and deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code; and

(v) In the case of meetings held for the sole purpose of developing a voluntary agreement or a plan of action which governs the retail marketing or distribution of refined petroleum products, a written summary of the proceedings of any such meeting together with copies of any written data, views and arguments presented by interested persons shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection in accordance with the provisions of section 552 of title 5 of the United States Code.

(f) The Administrator, upon approval of the Attorney General and the Federal Trade Commission, may exempt types or classes of meetings, conferences, or communications from the requirements of subsection (e) where such types or classes of meetings, conferences, or communications are determined to be necessary to implement any such agreement or plan of action. Such meeting, conference, or communication may take place and be recorded in accordance with such requirements as the Administrator may prescribe by rule, subject to the approval of the Attorney General and the Federal Trade Commission, as consistent with the purposes of this section.

(g) Actions taken in good faith, by persons engaged in the business of producing, refining, marketing, or distributing any petroleum product, in accordance with this section and rules promulgated hereunder, to develop and implement a voluntary agreement or a plan of action to carry out a voluntary agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act, or similar State and local statutes.

(h) Any voluntary agreement or plan of action entered into pursuant to subsection (d) and (e) of this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 10 days before being implemented. Such agreement or plan of action shall be available for public inspection in accordance with the provisions of section 552 of title 5, United States Code. The Attorney General or the Federal Trade Commission, at any time, on motion or upon the request of any interested person, may modify, amend, disapprove or revoke any such voluntary agreement or plan of action and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (g) of this action.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President at least once every six months a report of the impact of competition and on small business of actions authorized by this section.

(j) The authority granted by this section (including any immunity under subsection (g)) shall terminate on May 15, 1975.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973 and all actions taken and any authority or immunity granted under such sections 6(c) shall be hereafter taken or granted as the case may be pursuant to this section.

(l) Section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act of the Emergency Petroleum Allocation Act of 1973.

Sec. 121. COMPREHENSIVE REVIEW OF EXPORT AND FOREIGN INVESTMENT POLICIES.

The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation and shall be submitted to Congress within ninety days after the date of enactment of this Act."

Sec. 122. EMPLOYMENT AND WORKER ASSISTANCE.

(a) Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

Sec. 123. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict, exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate. In the administration of such restrictions, the Administrator may use existing statutory authorities and regulations including, but not limited to the Export Administration Act of 1969. Rules under this section shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

Sec. 124. REPORT AND TERMINATION DATE.

(a) No later than September 1, 1974, the President shall submit to Congress an interim report on the implementation of this Act, together with such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

(b) Notwithstanding any other provisions of title I of this Act or of the Emergency Petroleum Allocation Act of 1973, any authorities granted in title I of this Act or by the Emergency Petroleum Allocation Act of 1973 which, but for this section would expire on December 31, 1974, one year after the date of enactment of this Act, or on February 28, 1975, shall expire on May 15, 1975.

TITLE II—COORDINATION WITH ENVIRONMENTAL PRODUCTION REQUIREMENTS

Sec. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"TEMPORARY AUTHORITY TO SUSPEND CERTAIN STATIONARY SOURCE EMISSION AND
FUEL LIMITATIONS

"SEC. 119. (a) (1) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before May 15, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under subsection (b) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law. The granting or denial of such suspen-

sion and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2) (B) and (2) (C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a) (2) of this Act.

"(2) (A) After public notice and public hearing, the Administrator may, for a period beginning after May 15, 1974, and ending not later than June 30, 1979, temporarily suspend any stationary source fuel or emission limitation as it applies to any person if the Administrator finds—

"(i) that such person will be unable to comply with such limitation solely because of the unavailability of types and amounts of fuels.

"(ii) that such suspension (in conjunction with interim requirements under subsection (b)) will not, after the applicable implementation plan deadline, result in or contribute to a level of air pollutants which is greater than that specified in a national primary ambient air quality standard, and

"(iii) that such person has been placed on a schedule which provides for the use of methods which the Administrator determines will assure continuing compliance with the stationary source fuel or emission limitation as soon as practicable (but no later than June 30, 1979), which schedule shall include increments of progress toward compliance with such limitation by such date.

"(B) (i) Any schedule under subparagraph (A) (iii) shall include a date by which a contractual obligation shall be entered into for an emission reduction system which has been determined by the Administrator to be adequately demonstrated (except that in the case of a person wishing to construct and install such system himself as soon as practicable, but not later than June 30, 1979, the Administrator may approve detailed plans and specifications and increments of progress for construction and installation of such a system). Before the earliest date on which a person is required to take any action under the preceding sentence (but not later than May 15, 1977) any source may elect to have the preceding sentence not apply to it; but if such election is made, no suspension under this section may apply to such source after May 15, 1977.

"(ii) For purposes of subparagraph (A) (ii) and of subsection (b), the term 'applicable implementation plan deadline' means the date on which (as of the date of enactment of the Energy Emergency Act) a national primary ambient air quality standard is required by an applicable implementation plan to be attained in an air quality control region.

"(C) Any person may obtain judicial review of a grant or denial of a suspension under this paragraph and of any interim requirement on which such suspension is conditioned under subsection (b) by filing a petition with the United States district court for any judicial district in which is located any stationary source to which the action of the Administrator applies. The second and third sentences of clause (ii), and clauses (iii) and (iv) of section 206(b) (2) (B) of this Act shall apply to judicial review under this paragraph. No proceeding under section 304(a) (2) may be commenced with respect to any action or failure to act under this paragraph.

"(a) In issuing any suspension under this subsection, the Administrator is authorized to act on his own motion without application by any source or State.

"(b) Any suspension under subsection (a) shall be conditioned upon compliance with such interim requirements as the Administrator determines necessary for minimizing the threat to public health which may exist prior to the applicable implementation plan deadline and for assuring maintenance of the national primary ambient air quality standards which may be authorized after the applicable implementation plan deadline. Such interim requirements and section 110 shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national primary ambient air quality standards during the period of the suspension. Such interim requirements shall include, but not be limited to, (A) a requirement that the source receiving the suspension comply with such monitoring and reporting requirements as the Administrator determines may be necessary to determine the effect on health or air quality of such suspension, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels or emission reduction systems which would enable compliance with the suspended fuel or emission limitations are in fact available to that person (as determined by the Administrator).

Such fuel shall not be required to be used if the Administrator determines that the costs of changes necessary to use such fuel during such period are unreasonable.

"(c) The Administrator may by rule establish priorities under which manufacturers of emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution.

"(d) The Administrator shall study, and report to Congress not later than March 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of scrubber technology (including projections respecting the time, cost, and number of units available) and the effects that scrubbers would have on the total environment and on supplies of fuel and electricity;

"(3) number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of scrubber technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities, analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of scrubber technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring variance-receiving sources to monitor impact of variances on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a) (2) (A) (iii), including any requirement under subsection (a) (2) (B) (i). No State or political subdivision may require any person to use an emission reduction system for which priorities have been established under subsection (c) except in accordance with such priorities.

"(f) (1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a) to violate any requirement on which the suspension is conditioned pursuant to subsection (b).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for any person to fail to comply with a schedule of compliance under subsection (a) (2) (A) (iii), including any requirement under subsection (a) (2) (B) (i).

"(g) For purposes of this section:

"(1) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111 (b), or 112) or contained in an applicable implementation plan and which is designed to limit statutory source emissions resulting from combustion of fuels, including a prohibition on or specification of the use of any fuel of any type or grade or pollution characteristic.

"(2) The term 'stationary source' has the same meaning as such term has under section 111 (a) (3).

"(h) Beginning 60 days after the enactment of this section, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) Up-to-date findings on the emission reduction systems determined to be adequately demonstrated for the purposes of subsection (a) (2) (B).

"(2) A concise summary of progress reports which are required to be filed by any person operating under a suspension pursuant to subsection (a) (2). Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator as a condition for receiving the suspension.

"(3) Up-to-date findings on the impact of the suspensions granted upon—

"(A) applicable implementation plans, and

"(B) ambient air quality in areas where any person has received a suspension under subsection (a) (2) of this section."

Sec. 202. IMPLEMENTATION PLAN REVISIONS

(a) REVISIONS TO REFLECT SUSPENSIONS.—Section 110(a) of the Clean Air Act is amended—

(1) in paragraph (2) (B) by inserting before the semicolon at the end thereof "; and provisions for energy conservation measures"; and

(2) in paragraph (3), by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard which the plan implements within the deadlines established under paragraph (2) (A) of this subsection. In making such determination the Administrator shall consider any current or anticipated suspensions under section 119, any action under section 106(b), and any projected shortages of fuels or emission reduction systems. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan (or portion thereof) not later than November 1, 1974."

(b) LIMITATION ON PARKING SURCHARGES.—Subsection (c) of section 110 of the Clean Air Act, as amended (42 U.S.C. 1857 C-5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2) (A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works for the United States Senate within 6 months after the enactment of this paragraph on the necessity of parking surcharge regulations in order to achieve national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge may be promulgated by the Administrator under paragraph (1) of this subsection as a part of an implementation plan. All parking surcharge regulations previously promulgated by the Administrator shall be null and void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) For purposes of this paragraph, the terms 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles."

Sec. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b) (1) (A) of the Clean Air Act is amended by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines

manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b)(1)(A) of such Act is amended by striking out "1975" and inserting in lieu thereof "1977".

(c) Section 202(b)(1)(B) of such Act is amended by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1976 shall contain standards which provide that emissions of such vehicles and engines may not exceed 3.1 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(d) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978".

(e) Section 202(b)(5)(A) and (B) of such Act are amended to read as follows:

"(5)(A) At any time after September 15, 1974, and before January 15, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed, by paragraph (1)(A) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977.

"(B) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year of the effective date of any emission standard required by paragraph (1)(B) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1978. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(B) to emissions of oxides of nitrogen from such vehicles and engines manufactured during the model year for which such suspension is granted. Any manufacturer may request additional 1 year suspensions until model year 1983, beyond which no suspension may be granted. Each additional request for suspension shall be treated as a separate suspension decision."

(f) Paragraph (b)(5)(D) of section 202 of the Clean Air Act is amended by adding the following new sentence: "Notwithstanding the requirements of paragraphs (i) through (iv) of this paragraph, the Administrator shall grant any suspension requested pursuant to paragraph (5)(A) or (5)(B) of this paragraph if he determines that application of such standard would result in significant increase in fuel consumption for such vehicles and engines."

(g) Section 202(b)(5)(E) of the Clean Air Act is repealed.

Sec. 204. CONFORMING AMENDMENTS.

(a)(1) Section 113(a)(3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions" the following: ", or 119(f) (relating to certain requirements during suspensions and priorities)."

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 113 of such Act is amended by inserting at the end thereof the following new subsection:

"(d) For the purpose of this section, the violation of any provision of an approved plan under section 106(b) of the Energy Emergency Act shall be

deemed a violation of a 'requirement of an applicable implementation plan during any period of federally assumed enforcement'."

(5) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(f)" before "209".

Sec. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title II of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) (1) For the period beginning May 15, 1974, the Administrator of the Environmental Protection Agency may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and consultation with the Federal Energy Administrator, issue exchange orders to any person or persons requiring the exchange of any fuel subject to any allocation program under title I of this Act or such Act of 1973. The purpose of such exchange orders shall be to avoid or minimize the adverse impact of any such allocation program on public health in those areas of the country designated by the Administrator of the Environmental Protection Agency under subsection (a). Such Administrator may issue an order under this subsection only if he finds that (A) substantial emission reductions will be afforded for one or more emission sources areas designated under subsection (a), and (B) the costs and fuel availability impact of such order will not be excessive.

(2) Violation of any exchange order issued under paragraph (1) of this subsection shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of an energy conservation and rationing program under title I of this Act.

(c) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of \$2,000,000 is authorized to be appropriated for such a study.

(d) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a 6-month period (other than action taken pursuant to subsection (e) of this section), or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(e) Notwithstanding subsection (d) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the

National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York, and for any other facilities for the transmission of electric energy between a foreign country and the United States which the Federal Power Commission finds will be subject to adequate environmental review conducted by a State agency pursuant to State law.

Sec. 206. ENERGY CONSERVATION STUDY.

The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derives from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

Sec. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

Sec. 208. RECOMMENDATIONS FOR SITING ENERGY FACILITIES

The President shall, within 90 days after the date of enactment of this Act, recommend to the Congress actions to be taken by the executive branch and the Congress regarding the problem of the siting of all types of energy producing facilities.

Sec. 209. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"Sec. 213. (a) (1) The Administrator shall conduct a study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States House of Representatives and the Committee on Public Works of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administra-

tor shall consult with the Secretary of Transportation, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined by the Administrator for each manufacturer. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK TO THE AMENDMENT
IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia, Mr. Staggers.

The Clerk read as follows:

Amendment [Sec. 201] offered by Mr. Murphy of New York to the amendment in the nature of a substitute offered by Mr. Staggers: On page 47, line 18, delete the words "the stationary source fuel or emission limitation" and substitute the words "a national primary ambient air quality standard", on line 21, delete the word "limitation" and substitute the word "standard", and on line 23, insert the words " , if necessary to meet a national primary ambient air quality standard," after the word "include".

On page 13, lines 20 and 21, delete the words "the fuel or emission limitation", and insert the following: "national ambient air quality standards".

Mr. MURPHY of New York. Mr. Chairman, the committee of which I am a member has spent a week which was both harrowing and rewarding in drafting emergency legislation to deal with the fuel shortage now facing the country. We were presented with a multitude of proposals and suggestions, many worthwhile; others lacking the thought and study needed to produce sound solutions to our problems.

This activity clearly demonstrates two principles we must adhere to in considering the legislation now before us. First, the Nation urgently needs the tools provided by this legislation to deal with the emergency that is at hand. Second, that in dealing with this emergency we must be careful not to make permanent legal changes which will hinder rather than help us deal with our long range problems.

Guided by these principles I introduced an amendment of the committee to section 201 of H.R. 11450 which was accepted unanimously which read:

Such interim requirements and section 110 shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national primary ambient air quality standards during the period of the suspension.

The intent of this section is to preserve the availability of a variety of approaches to attainment of national ambient air quality standards. Nothing in section 110 of the Clean Air Act mandates the use of any

particular method of achieving air quality, such as scrubbers or low sulfur fuel. Now, when we are acting under the pressure of a crisis, is not the time to enact such a mandate.

Other sections of the bill requiring the Administrator to report to Congress by March 31 of 1974 on the total effects, including environmental impacts, of scrubber technology, show the clear desire of the committee to obtain the full facts necessary to decide if we should amend **section 110**.

Lest there be misunderstanding, I should point out that my amendment requires that any alternative of intermittent control measure used must be determined to permit attainment and maintenance of national primary ambient air quality standards. In other words the Administrator of EPA must assure that utilization of these measures will not threaten public health.

This is the same burden Congress has placed upon him in the Clean Air Act. The pending bill does not alter this burden. Under the Clean Air Act he is now required to set primary ambient air quality standards which, with an adequate margin of safety, are requisite to protect the public health.

All that the amendment I quoted earlier does is make it clear that he is not forced, in protecting the public health, to choose means which will unnecessarily deplete our national resources, narrow the selection of fuels, or worsen the energy crisis.

Mr. ROGERS. Mr. Chairman, as I understand the gentleman's amendment, it would simply apply during this emergency period. It would not allow any of the interim measures of satisfactory compliance after June 30, 1970?

Mr. MURPHY of New York. That is correct.

Mr. ROGERS. And it would require the maintenance of the primary clean air standards?

Mr. MURPHY of New York. Yes, it does, precisely.

Mr. ROGERS. Mr. Chairman, I thank the gentleman.

Ms. ARZUG. Mr. Chairman, there is some question in my mind about this matter.

Does it change the ability of the Administrator to put each source on a compliance schedule?

In other words, as the bill now reads without this amendment, there are certain procedures by the Administrator which require effective review, based upon particular compliance schedules.

Now, if the gentleman is substituting a national ambient air quality standard, is he not really exempting sources from or taking away from the Administrator the right to review the compliance schedule requirement for particular sources?

Mr. MURPHY of New York. Mr. Chairman, we extend the compliance schedule. What we do is we say that with regard to the State plans, if they are not revised, the Administrator, in his efforts to allocate fuels throughout the country to satisfy national ambient standards in certain parts of the country where, for instance, there are people who represent an area with many stacks in the area, may say that is where the clean fuel should go.

This amendment permits the Administrator to advise the other Administrator to move these fuels to that area.

Mr. Chairman, this is a trigger to assist the Administrator in allocating cleaner fuels to the areas where there are stack concentrations and where we would have problems with the maintenance of national ambient air qualities.

Ms. ABZUG. Mr. Chairman, if there are these national ambient air quality standards, a particular source—let us take Astoria-Queens—would that not have to fit in with what is presently in the act as a particular compliance schedule? Is that not correct?

Mr. MURPHY of New York. No; it is not correct.

If we are referring to Astoria-Queens, we would have to fit it in with any other source of emissions so that their airshed, along with 26 other counties which are in the common New York-New Jersey airshed, would meet ambient air quality standards.

Ms. ABZUG. Yes; but under the particular compliance schedules, they have to reach a certain standard. This is a substitute for that in effect. This provides a very general air standard eliminating the compliance schedules from review by the Administrator on a source-by-source basis.

Mr. MURPHY of New York. It would only be true if the State plan was amended to permit that particular source to do that.

If the gentlewoman is talking about Ravenswood, for instance—

Ms. ABZUG. Mr. Chairman, I just used Astoria-Queens as an illustration.

My major concern—and I wish the gentleman would address himself to this—is that I believe by putting this general statement in for ambient air quality standards, we are effectively removing from review particular sources which will then not be subject to any kind of administrative procedure, such as we have provided for there.

Mr. MURPHY of New York. No; the Administrator must pass on these, and I am certain in our area that will be true.

I would say to my colleague that in 1964 to 1966, I was responsible for bringing up the first air pollution convention under the Clean Air Act, to New York. This was undertaken with a view in mind to preventing polluting sources to the New York-New Jersey airshed. This gentleman believes that we have taken a strong position against polluting the air and we will not permit a relaxation or rollback of these accomplishments, if that is what the gentlewoman is referring to.

Mr. ROGERS. Then, Mr. Chairman, as I understand it, the gentleman is saying that the EPA would have the necessary ability to go into an individual plant, if it is violating or contributing to the violation of national air ambient standards, and take action against such individual plant?

Mr. MURPHY of New York. Yes; he would.

Mr. ROGERS. Mr. Chairman, I thank the gentleman.

Mr. NELSEN. Mr. Chairman. I wish to thank the gentleman for offering this amendment.

I might add that in the committee the gentleman and I worked together on the alternate and intermittent part of this amendment. I think that it is a good amendment, and I hope the House adopts the amendment.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I rise only to observe that it did not take long after the unanimous-consent, gentleman's agreement, if it may be called that, to evaporate into thin air. This first amendment to the bill amends **section 119** of the bill, which is one of the last, if not the last, section in the bill.

Moreover, it amends H.R. 11450, for which H.R. 11882 has been substituted.

I wonder if in pursuing this matter this afternoon we may have more orderly legislative procedure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Murphy) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment was agreed to. [**Sec. 201.**]

AMENDMENT OFFERED BY MR. NELSEN TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. NELSEN. Mr. Chairman, I offer an amendment to the amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [**Sec. 103**] offered by Mr. Nelsen to the amendment in the nature of a substitute offered by Mr. Staggers: Page 7, line 21, strike out the first period and the quotation marks.

Page 7, insert after line 21, following:

"(k) Effective on the date of enactment of the Energy Emergency Act, any provision of the regulation under subsection (a) which prior to such date of enactment provided that any allocation of residual fuel oil, or refined petroleum products was to be based on use of such a product or amounts of such product supplied during calendar year 1972 or any portion thereof, shall be amended to provide that such allocation for each calendar month shall be based on use or amounts supplied during the corresponding month of the preceding year."

Mr. NELSEN. Mr. Chairman, the purpose of this amendment is as follows: Here is a hypothetical example sent to me relating to a school district example. They completed construction in 1972 of a new school building. Throughout the year 1973 it was supplied by a local fuel distributor. If the 1972 base period is to be applied, the supplier of fuel for this school will not be entitled to an allocation of fuel for the school during the month of January and through the months of each year that the allocation program is in effect.

In other words, instead of going back to 1972 for an allocation level, you would use the same month in the previous calendar year to determine the allocation. It seems to me it is really what we intend doing, and I hope the committee adopts my amendment.

Mr. LATTA. I asked him to yield for the purpose of inquiring. Let us take another hypothetical situation where a farmer last year had a very wet harvest season and did not use very much fuel. That was in 1972. Then in 1973 he had a dry season during those same months he was harvesting his crops. Would that farmer be entitled to sufficient fuel to harvest his crops this year under those circumstances?

Mr. NELSEN. I have not delved into that. I was using merely the example that I cited. But it seems to me that the claim is an analogous one under the circumstances. I would like to have the staff examine

it more carefully, however. This situation came to my attention this morning from my district, where a business would be denied, under the criteria we have, the right of getting any fuel at all. I used this example presented to me as a case in point.

Mr. LATTA. If the gentleman will yield further, as I understood your amendment, you were tying it to 1972.

Mr. NELSEN. No; we are tying it to the previous calendar year, the same month, rather than the year 1972 only.

Mr. FREY. The Emergency Allocation Act provides for certain adjustments that can be made as set forth under various circumstances. I am worried on a month-to-month basis if it would not unduly complicate an already complicated procedure.

Mr. NELSEN. Under the provisions of the process now, it is on a 1972 basis, which is totally unfair because of the fact that in some cases some businesses have come into being in the following year and therefore they would have no background on which to fall so that they could get any allocation of fuel. But if there is any other way to reach this end, I have no objection to it at all. However, I do feel something ought to be done in this direction.

I would like to have a little colloquy with the chairman and the staff on the other side if they would examine my amendment. It has been over there for quite some time.

Mr. WAGGONNER. Mr. Chairman, do I understand the amendment offered by the gentleman from Minnesota (Mr. Nelsen), is to provide allocation on a history which is related to months? In other words, November 1973, to November 1972, or December 1973, to December 1972?

Mr. NELSEN. That is correct?

Mr. WAGGONNER. And 1972 is to be the base year?

Mr. NELSEN. 1972 under the present allocation process is a basis on which fuel is allocated. But in this case we had this school building that came into being and on the basis of 1972 they had no allocation to this particular project. So what I am trying to do is to use the previous calendar year, the same month, and then allocate on that basis.

Mr. WAGGONNER. Mr. Chairman, experience teaches us with the allocation program we have had to this point in time that we cannot relate a specific month of the preceding year to the specific month or the corresponding month of this year, because circumstances change too much.

Mr. WAGGONNER. In Louisiana, for example, for the months of October, November, and December last year, calendar year 1972, they were extremely wet months, and the farmers did nothing. And if they got fuel for calendar year 1973 for the corresponding months in 1972 they would get nothing this year, because they have not had that same similar weather. Now, we cannot get into that situation.

Mr. NELSEN. They would be in the same position as in the year 1972.

Mr. STAGGERS. Mr. Chairman, I would like to have a word with the gentleman from Minnesota. In review of the colloquy that we have had, I would wish the gentleman from Minnesota would withdraw his amendment because there is a misunderstanding here, and I am in doubt about some provisions in the gentleman's amendment.

Mr. NELSEN. Mr. Chairman, I will be happy to withhold the offering of my amendment at this time, since it may be possible we can work this out.

Therefore, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

Amendment [Sec. 120] offered by Mr. Eckhardt to the amendment in the nature of a substitute offered by Mr. Staggers: Amend the amendment in the Nature of a Substitute on page 42, line 11, by striking the period and adding the following language: "except that, for the purposes of this exemption—

"(i) No action which is not necessary to effectuate allocation plans reasonably contemplated to implement the purposes of this Act shall be deemed exempted from application of the antitrust laws of the United States by this paragraph.

"(ii) The second section of the Sherman Antitrust Act as amended (15 U.S.C. 2) and Section 7 of the Clayton Act, as amended (15 U.S.C. 18) are not included in the term 'antitrust laws of the United States,' as used in this paragraph, and any violation of their provisions is not in anywise made lawful by the exemption granted herein.

"(iii) The term 'actions' as used in this paragraph does not include any action the effect of which extends beyond the date, December 31, 1974."

Mr. ECKHARDT. Mr. Chairman, this is an amendment to the so-called Brown antitrust amendment. Under the Brown amendment it is provided that where there are meetings between industry people and the Administrator's people with respect to plans of allocation, as long as such meetings are recorded and done in the manner provided in that section, they are exempted from all antitrust laws.

What this amendment does is make some exemptions which narrow the antitrust exemption.

First, it provides that no action which is not necessary to effectuate the allocation plans, reasonably contemplated to implement the purposes of this act, shall be deemed exempted. This does the same thing as the *Silver* case of the U.S. Supreme Court did with respect to antitrust exemptions under the Securities Act. Under the Securities Act there can be certain agreements, for instance, by the New York Stock Exchange, which are necessary to implement that act and which are, therefore, removed from coverage of the Antitrust Act.

We are saying the same thing here, that if the agreement is a necessary implementation of this act, it is exempted. No. 2, it says the second section of the Sherman Antitrust Act as amended, and section 7 of the Clayton Act are not included in the term "antitrust act."

The first section of the Sherman Antitrust Act prohibits agreements in restraint of trade. That is all that ought to be exempted under the Sherman Act.

As the distinguished gentleman, Mr. Young, said a little while ago, the second section implies bad faith: a bad intent and a bad result. That is the section that makes it illegal to monopolize.

Section 1 of the Sherman Act deals with agreements in restraint of trade; section 2 with monopolizing. Certainly we do not want to authorize that as an exemption under this act.

Section 7 of the Clayton Act is the one that condemns mergers, and we particularly do not want to exempt mergers, because during this protected period, for instance, certain pipelines and certain elements in the distribution of petroleum products could merge under the protection of the Brown amendment, which mergers could extend beyond the effective date of this act and would be protected by the Brown amendment, because the agreement to merge occurred in the protected period.

Section 3 says the term "actions" as used in this paragraph does not include any action, the effect of which extends beyond the date December 31, 1974, and that is to prevent the protection during this short period from permitting a pattern of action that could freeze out little people for a long period after the emergency ceases.

Those who know something about the petroleum industry know that the people at the beginning of the pipeline, so to speak—and I am using that figuratively—are frequently little people: little producers in competition with major producers. In Texas they constitute about 3,300 independent producers and about 11 majors. The 3,300 could be completely destroyed by agreements in restraint of trade by majors in some line in this conduit of allocation, if agreements could be made at that time which would have effect beyond the date December 31, 1974.

At the other end of the pipeline: that is, the distributors' end, exactly the same thing occurs. The distributors are little people, but in competition with majors. In both instances the majors could destroy both the producers at the beginning and/or the distributors at the tail end if they, the majors, are exempted from antitrust laws.

So all this third section says is it cannot have effect after the emergency date.

PARLIAMENTARY INQUIRIES

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ADAMS. Mr. Chairman, as I understand it this is a perfecting amendment to **section 120**. I have previously indicated, and have filed it with the Clerk, that I will offer a motion to strike **section 120**, the so-called antitrust section. My question is this: If a vote occurs upon the amendment offered by the gentleman from Texas and the section is perfected or not perfected by his amendment, am I precluded from moving to strike **section 120** at a later time in the proceedings?

The CHAIRMAN. Regardless of the outcome on the amendment now pending, the gentleman will not be precluded from making a motion to strike at another time because this is a perfecting amendment that does not deal with the whole of the section.

Mr. ADAMS. I thank the Chairman.

Mr. SEIBERLING. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SEIBERLING. Mr. Chairman, if the amendment offered by the gentleman from Washington should not succeed and someone else should offer another amendment to **section 120**, will that amendment be precluded by this perfecting amendment?

The CHAIRMAN. Not necessarily. The Chair will answer the gentleman by saying that **section 120** is a long section. Other amendments to the section might still be offered. But in the event the amendment offered by the gentleman from Texas is adopted a further amendment to that particular portion of the language might be precluded. But other parts of the language in that particular section would still be open to amendment.

Mr. SEIBERLING. Mr. Chairman, suppose the amendment were a complete substitute for **section 120**.

The CHAIRMAN. It would still be in order.

Mr. SEIBERLING. I thank the Chairman.

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas.

Mr. Chairman, this I am sure is the first of several efforts to take the antitrust exemptions out of this legislation and I sympathize with the motivations of the gentleman from Texas to the extent that he does not want the opportunity for the petroleum industry to get together illegally and I certainly sympathize with the objectives of (i) in his amendment. As a matter of fact I sympathize with him so much that it is already in the language of the amendment.

We have prohibited the abrogation of the antitrust procedures except in pursuit of dealing with the energy crisis under the provisions of the Petroleum Allocation Act and the language of this particular bill.

As to item (ii), the second section of the Sherman Antitrust Act and section 7 of the Clayton Act are of course the basic aspect of what we are trying to make possible for the industry to do, to discuss and develop a plan to deal with the problem of shortages.

If they cannot get together and they cannot under the present Antitrust Act, then we have some difficulty in getting a plan that the industry would be able to come to any agreement on. We also have difficulty even if a plan should be promulgated by the administration without industry getting together to help plan it, and we would have difficulty with the industry coming together to implement that plan.

The problem is that we are likely to get parts of the country where there is an emergency need for fuel and there will be a need at that time for either distributors or perhaps refiners or perhaps even people who have crude oil to be able to be in touch with one another and say, "We have a ship that is due in Norfolk that is loaded with oil but we have an emergency because of a cold snap in New England and we would like to move that ship to New England and will you please make arrangements to get that up there?"

In the case of local distributors, if the Gulf distributor in a small community in a farm area has a customer who is out of oil in the north part of the country and that night it is going to do down to zero, he has to be free to call the Exxon distributor and say, "Hey, it's my customer, but it's your oil and take care of it for a few days."

Situations such as this will be taken care of under strict guidelines drawn up in the presence of the Attorney General, in the presence of representatives of the FTC and the Attorney General, with full transcripts of the meetings and with prior notice of the meetings and the possibility for public participation.

Mr. Moss. Mr. Chairman, I would like to say that the gentleman from Ohio entered into negotiations with me during the mark up of this legislation in the committee. He entered into those negotiations at a time when it was quite evident that he had by far the largest majority in the committee supporting the position of his original amendment. Nevertheless, in good faith negotiations, the gentleman effected substantial modifications of the original amendment.

I stated in committee when this amendment now before us was offered that I felt that we had struck a balance where the public interest was adequately protected, where there was an assured representation under appropriate Federal oversight, where actions could be modified by the Attorney General or the Federal Trade Commission.

I want to make it very clear that I support the position now being stated to this committee by the gentleman from Ohio. He has dealt with me in a constructive and a thoroughly honorable manner. I intend to support him in like spirit.

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the statement of the gentleman from California. He is quite right. We did try to work out the most effective method of temporarily, and I say temporarily, abrogating the antitrust provisions, so that we could deal with this emergency problem.

The gentleman from California, I think, is not known in this body as a defender of monopolies or an opponent of small business or anything that might be suggested by an effort temporarily to provide an exemption from antitrust laws.

I will yield to the gentleman from Arizona in a moment, if I may; but I would like to call the attention of the committee to one other factor of saving language in the bill, that is subsection (h) [Sec. 120] in the legislation, which says that all the voluntary agreements which are entered into can be abrogated immediately by the Federal Trade Commission or the Department of Justice on the complaint either of themselves or of some private citizen; so that if they discover or if it is determined that for any reason they are operating in restraint of trade or they are not accomplishing the purpose of this legislation, that is taken care of.

I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I ask the gentleman to verify the statement of what the gentleman from Texas said about the scope of the text of subparagraph (g) [Sec. 120] on page 42. It was my understanding that the gentleman from Texas felt that under the wording in the bill it would be possible by waiving all the antitrust laws to have a voluntary agreement, including merger.

Now, it strikes me that by the very definition of the term voluntary agreement, as set forth elsewhere in the bill, that there is no way that the voluntary agreement can possibly be so broad as to contemplate a merger of two companies.

As I understand it, the agreement merely is an arrangement whereby the companies would agree to work together to conserve energy.

Mr. BROWN of Ohio. The amendment is not designed to encourage the merger of existing oil companies. It is designed to make it possible for oil companies to work together and deal with distributors in the full light of the Federal Trade Commission, the Attorney General, the pub-

lic and everybody else. After agreements are entered into and when they are in progress at the distributor level and even perhaps at the service station level, at that point if there is anything occurring in restraint of trade or which does not square with the purposes of this legislation the Federal Trade Commission or the Attorney General, upon the complaint of a citizen or their own offices, can terminate that agreement forthwith and from then on anything that is done in connection with that exemption would be under the antitrust provisions as usual.

Mr. RHODES. Mr. Chairman, I thank the gentleman for his explanation. I certainly did not want the legislative history of this bill to indicate that anybody felt that a voluntary agreement could encompass a merger. It is my understanding that this is not the situation.

Mr. BROWN of Ohio. First, the agreement is voluntary and the Attorney General approves the agreement. In a merger of major oil companies we would find the Attorney General being criticized severely in this Congress and some action taken to recall him.

Mr. Chairman, I feel the amendment of the gentleman from Texas (Mr. Eckhardt) should be defeated. I think we have an acceptable arrangement for dealing with this antitrust problem temporarily so that we can go ahead and deal with the energy problem. I would like to remain with it, if we go through this committee and we can make the process work so that we can resolve the energy problems we have in our society.

Mr. ECKHARDT. Mr. Chairman, let me point out that I understand the gentleman's clause containing section (h), which says that effective on the date of enactment of this act, this section shall apply—the gentleman has authority granted in this section in (j), shall terminate on May 15, 1975.

Mr. BROWN of Ohio. In accordance, I might say, with the termination date of the rest of the legislation.

Mr. ADAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this shows the great danger of trying to deal with the antitrust laws in a bill and with a committee that is not working in the antitrust law field. I have great respect for the gentleman from California (Mr. Moss). He is a very close friend of mine; the statement the gentleman made about him, that he certainly is not one who favors doing away with small business or injuring them, is correct.

The problem that we are into today with this amendment and the problem we are into with what was done by making the amendments of the gentleman from Ohio germane is that we are trying to write into this bill, without any legislative history and without any hearings on what is going to be the effect of exemptions from the antitrust laws by varying types of language. This is exceedingly dangerous. It is the reason why later I shall offer an amendment to strike the antitrust provisions of this, and if somebody has a question about what can happen or how you can have a merger under this, this applies to voluntary agreements and plans as well as voluntary agreements. So that we have a situation here where we can literally force the merger of two small independent companies because they cannot get product because there has been a voluntary agreement that the product will be divided among the companies who are presently in the field.

I have a memorandum from the Federal Trade Commission staff, and I have tried to research this in the short period of time we have had, and it is literally impossible for them to try and push this out when this kind of provision is in the bill that says that this shall be an exemption, not a defense.

They are not required to supply any information as to what went on in these meetings, nor are they required to supply information as to what has gone on in the implementation of the plan, whereas in the Senate bill, as bad as it may be, at least it says that "If you want to get an exemption, Mr. Oil Company, you have got to prove it in a defense, and you have to supply the information that will support your defense."

And under this bill they are not required to supply any of the information, and it is not a defense; it is a complete exemption.

Mr. EVANS of Colorado. Mr. Chairman, I am terribly nervous any time we start tampering with the Antitrust Act and the exemptions to it.

I was not a civilian during the Second World War, but I know that we did have gas rationing at that time in our history.

I asked my office to contact the Library of Congress to find out what laws, if any, were passed in the years 1940, 1941, 1942 to handle this very problem we are talking about now, since in 1941 and throughout the war oil companies and officials were counted upon to assist the Government in allocating a short commodity, fuel.

My office has discovered from the Library of Congress that no legislation whatsoever that they could find was passed to give protection to oil companies or their officials when they were called together by the Government to assist in allocating the fuel, with the shortage that we had.

Now, my question to the gentleman in the well is this—or I will ask the question of any Member here who may be on the committee or any Member who remembers that particular time:

What, if anything, has happened since the Second World War in terms of national legislation that would require these exemptions today when all throughout the Second World War we required no such exemptions?

Mr. ADAMS. Mr. Chairman, I would say that what has happened is that a lot of oil companies are nervous because they have had a series of antitrust actions brought against them during the 1950's and during the 1960's.

The second thing is that they were a great deal more integrated than they are now, and, therefore, any of their actions can put independent marketers out of business.

That is why they want an exemption from that, plus the fact that the administration wants to bring in the oil company people and have them run this program, under the amendment that will be offered later by the gentleman from Ohio, and made in order under the rule. That would exempt the conflict of interest provisions, so then you are going to have the very people who have control of the refined supplies of the United States running it and running these voluntary agreements, and they are very nervous about it.

Mr. EVANS of Colorado. The gentleman has addressed himself to the economic changes since the Second World War.

I would ask the gentleman to address himself to the question whether or not there have been significant legislative changes since the Second World War that would make these exemptions necessary at this time.

Mr. ADAMS. Mr. Chairman, in answer to the gentleman's question, there is a provision in section 708 of the Defense Production Act of 1950 that declares that under an emergency they can do many of the things they did in World War II and be protected from the Antitrust Act.

I think that is a dangerous provision that is in the Defense Production Act.

I like the fact that it is taken out by this bill, and we are discussing now whether maybe we should take that out here also.

The main point I wish to make, in answer to the gentleman on legislation, is that if the Gentleman wants to exempt companies from the antitrust law, we should let them go to the Committee on the Judiciary and let them bring up a bill and we can be sure it is done right, or they can go to the Committee on Post Office and Civil Service and get an exemption of conflict-of-interest law.

But let us not do it in the name of fuel conservation. Let us not pass a great series of things that are going to do a great deal of harm to the business communities of the United States and to the people of the United States.

So, Mr. Chairman, I hope we will strike the antitrust provisions entirely, although I am willing, if they wish to knock out the antitrust provisions in the Defense Production Act, to knock those out too. I just think we should not tamper with it.

Mr. FREY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I was interested in the remarks of my good friend, the gentleman from Washington (Mr. Adams), because this bill does, indeed, I think, encroach on the jurisdiction of a great many committees.

It is interesting to see the reaction to the various sections. For instance, section 117, the restriction on windfalls, is within the jurisdiction of the Committee on Ways and Means or the Committee on Banking and Currency.

However, this section was ruled germane to the bill as, of course, was the antitrust provision. I think if we could have had a clean bill solely within our jurisdiction, there would have been a lot of us who would have been a lot happier, especially me.

However, you cannot have it both ways. The argument of the gentleman from Washington is as applicable to the antitrust section as it is to 5117—the tax provision. We spent a great deal of time on this bill in the committee. The gentleman from Ohio has a good amendment, which if outside our jurisdiction, is no more outside our jurisdiction than a lot of this bill.

Mr. Brown of Ohio. I would like to say first, Mr. Chairman, I think the gentleman from Washington, who is a meticulous member of the committee and for whom I have the greatest respect, misspoke himself when he said that there was no requirement for information about the meetings to provide plans and so forth and so on.

The legislation which we have before us provides that such meetings to prepare a plan would be chaired by a regular Federal employee, but also it would be open to the public and a transcript would be kept of the proceedings and filed as a public record. In addition to that, it would have representatives of the Attorney General sitting in on the preparation of the plans. That was the protection that was put into it.

I might say to the gentleman that the Defense Production Act, to which he made reference, **section 708**, provides for the encouragement of the making by people covered by this act, with the approval of the President, voluntary agreements and programs to further the objectives of the act. Further on it provides for the Attorney General to review such voluntary agreements.

Our legislation which we have before us, is more restrictive than the Defense Production Act. It is particularly written to be more restrictive.

I do not defend monopoly any more than anybody else on this floor does. And certainly I do not want to kill off small business. All I am trying to do is to deal with the emergency problem which we have and to deal with it in this amendment in the best way that we possibly can. I think that way is not to prohibit the oil companies as a matter of law either from participating in the plans or initiating them.

Mr. ADAMS. I do not think I misspoke myself, because if you look at page 41 [**Sec. 120**], you have exempted under 5 keeping any of the records of those meetings. They have only to produce a summary. If you look a section (f) on page 41, line 16, the Administrator, with the approval of the Attorney General and the Federal Trade Commission, can exempt all of the meetings from being chaired by anybody or attended by anybody or in any way falling under the provisions of this act. That is what I meant when I said that you give with one hand, but you taketh away with the other.

Mr. BROWN of Ohio. The distinction is between the promulgation or the preparation of a plan and the implementation of a plan. The implementation of a plan is where the Gulf dealer calls the Exxon dealer and says "I have a customer out in the county who is out of oil tonight. Under the agreement reached in Washington, we have to provide him with a certain amount of fuel." It is not necessary to have a Federal official sit in on that call or have notes taken on it. But for the development of the plan which calls for that kind of cooperation it is necessary to have a Federal administrator sit in on it and have the Attorney General participate in it and so forth and so on.

Mr. ADAMS. The whole plan you have set up here is that in the original planning stage you will set up a rule or regulation under section (c) which will simply say people can get together and meet and decide what they want to do about the distribution of products. That is the key part of the plan.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by my good friend, the gentleman from Texas (Mr. Eckhardt).

I personally would not prefer to have any amendment relating to the antitrust laws in the legislation at all. I do not believe that that is a matter that should be addressed here at this time by his committee. It is a matter that properly should fall within the hands of the Committee on the Judiciary. But if we legislate language relating to the antitrust laws we must see to it that this is done with exquisite care.

It is unfortunate, I must say, that we find ourselves in a parliamentary straitjacket where reforming language of such a technical amendment is done under such impossible conditions.

Mr. ECKHARDT. Mr. Chairman, I take this time merely to point out that if the Eckhardt amendment is adopted it would not prohibit those who choose to strike the section to do so. It would also not prohibit those who choose later on to substitute another approach to the problem. But I would like to say this: That at the very least this qualification should be put on **section G**.

The gentleman from Ohio has indicated here that he really intends to terminate this action on the date stated in the act at **section J**. But that section says that the authority granted by this section shall terminate on May 15, 1975. The effect, though, of agreements made during that period of time would not necessarily terminate.

I would think the gentleman, if his intentions are good, and I feel sure they are, would have no objection to qualifying to say the term "actions" used in this paragraph do not include any action the effect of which extends beyond the date December 31, 1974.

Furthermore, I can see no reason why the gentleman would object, if the intentions of the oil companies are good, to providing that no action would be protected unless that action was necessary to effectuate the allocation plans. The gentleman says this is in his bill. Then why not put it here specifically? And certainly I can see no way to defend an exception to the Antitrust Act to permit mergers during this period or to permit monopolies.

Mr. McCLORY. Mr. Chairman, it seems to me that if we are going to establish these kinds of volunteer agreements that it is appropriate that consideration be given to saying or implying that there should not be a violation of the antitrust laws in connection with them.

I understand that the gentleman from New Jersey, the chairman of the House Committee on the Judiciary, proposes to offer an amendment at some stage which would provide in connection with this **section g** on page 42 that the good faith provision would be available as a defense, and would not be an interpretation solely made by the persons entering into or engaging in a business as a complete protection against the violation of the antitrust laws, but I do not think the gentleman is quite ready with his amendment at the present time.

I realize that this has not come before our committee, but I realize that these are essential provisions if we are going to secure the necessary voluntary action on the part of these companies that is necessary to carry out a nationwide program.

Mr. DINGELL. I yield to my friend, the gentleman from Ohio (Mr. Brown) with whom I disagree on the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I am happy to have my friend, the gentleman from Michigan (Mr. Dingell) with whom I disagree, yield to me.

I would say to the gentleman from Texas, who raised the question about the termination date in the section of the bill of May 15, 1975, that it is designed to conform to the termination date of all the other termination dates which are included in the legislation.

I think, in accordance with the same position impressively made by the gentleman from Texas, the authority which is given in this section is in fact given to May 15, 1975.

Mr. McKINNEY. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, one of the things that bothers me about this bill—and I would be interested in colloquy from the gentleman from Ohio or anyone else on the committee—is that I happen to come from New England where the name of the game on the part of the big oil companies is, let us get rid of the independents. For some reason or other, I cannot see just exactly how this love affair in Washington between and among big oil is going to take care of the independent oil producers.

We thought we had a love affair going in New England until we found out the Texas Co. could say, "We have got full tanks, and play ball with Tom Siever," but when we turned around to the independent, who supplies 60 percent of the oil in New England, we found out he was 33 percent down or he was 66 percent down. He cannot take on new customers, but Texaco, and all the rest would love to take on new customers.

I just do not see in this bill how we as a Congress can turn around and ask, nor how the administration can even contemplate, these big oil companies running the show when they are the ones that have totally put us into this position. It is absolutely incomprehensible to me how we can turn around and violate and destroy and remove anti-trust regulations and give these companies free rein.

In my district alone, after one distributor was cut off back as far ago as last July, my office requested that big oil supply him. Not one major company would offer him one drop of gasoline. We had to go to the Office of Emergency Preparedness, where they got a barge out of Baltimore Harbor which gave that supplier 1 more month of operation before he again ran out.

Mr. RUPPE. Who has supplied this independent distributor with his petroleum product prior to his being cut off? Was it a major oil company?

Mr. McKINNEY. In most cases, no. The oil supplied to the independents is bought through metropolitan distributors, through New England distributors, and through the European market. Of course, they are not getting it from the European market, because the European market does not have any. The gentleman does not think that big oil or anyone else is going to sit around and say, "Well, we are going to give our competition oil." They have not done so in the past. They have been unwilling to now.

Anything we can do to keep the antitrust provisions, I am for.

Mr. BINGHAM. I should like to commend the gentleman on his statement.

I should like to address a question to the gentleman from Ohio (Mr. Brown). In response to a question which was earlier posed, he said that the provisions as drawn would not encourage mergers, but he did not deny that they would permit mergers. As I understand the amendment of the gentleman from Texas, it would permit mergers, and I should like to have a clarification by the gentleman from Ohio. Would the section as drawn by the gentleman from Ohio permit mergers?

Mr. Brown of Ohio. I think not. I must say to the gentleman I am neither a lawyer nor the world's greatest authority on the antitrust procedures, but I would say to the gentleman that it would require

the Attorney General, the Federal Trade Commission, and a voluntary agreement on the part of the companies to have a merger.

I would also say I would assume that absent any provisions of this law that if there were to be a merger of companies that it would require the Attorney General and the Federal Trade Commission and others to make an assessment that it is not going to restrain trade.

Mr. McKINNEY. I would like to ask the gentleman from Ohio a question. Is there anything in this that would prohibit the majors buying up the independent local distributors at rockbottom cost, because their business is going to be at rockbottom value at that time?

Mr. BROWN of Ohio. The Attorney General and the Federal Trade Commission would have that as their charge, and if that did not serve the purposes of this act and I assume it would not, they would certainly not permit that kind of practice.

Mr. McKINNEY. But does the gentleman think the Attorney General and the Federal Trade Commission will look at the activities of hundreds of thousands of small business people across the country? I assure the gentleman they will not. They cannot. I have not been impressed by their past performance.

Mr. BROWN of Ohio. I would assume they will do their job.

Mr. YOUNG of Illinois. Mr. Chairman, I move to strike the last word. I would like to discuss the antitrust laws for just a minute. The antitrust laws are not complicated. There is not anyone in this House who cannot understand them. The purpose of this amendment reminds me of a contract, as Members will recall, where the gentleman looked at the contract and read it and said, "My, I have read the big words and that gives it to me," and then he looks at the small words at the bottom of the contract and he says, "This takes it away from me." That is the type amendment we have before us today.

There are three parts to the amendment. The first part of the amendment is superfluous and does not add anything and does not detract anything. It says:

No action which is not necessary to effectuate allocation plans reasonably contemplated to implement the purposes of this Act shall be deemed exempted from application of the antitrust laws of the United States by this paragraph.

That does not add anything and it does not hurt anything and is not really necessary.

The second part of the amendment has to do with excluding from the exemption provision of the antitrust laws section 2 of the Sherman Antitrust Act. This is the bad part.

The third part has to do with mergers. It is my opinion that by no stretch of the imagination I can think of would it be proper for the Attorney General or the FTC to permit a merger by virtue of any exemption provided in the language of this bill.

I would also reply to the question of the gentleman from Connecticut (Mr. McKinney) with respect to whether or not this would permit the big oil companies from gobbling up small companies. I would say absolutely not, because the only type exemption we have provided in this bill is the exemption which applies to an energy plan adopted by the Administrator. That is a plan adopted by the Administrator, and not by oil companies, and the actions to effectuate and to implement that plan.

Let me tell the Members why section 2 of the Sherman Act should not be excluded from the antitrust exemption provisions of this bill. The reason is section 2 and section 1 are interrelated. Section 2 relates to attempts to monopolize. It makes it unlawful to monopolize. The big oil companies according to economists are known as oligopolies. That means any action which they take which is in restraint of trade but which is taken under an energy conservation plan, could also be deemed to make them guilty of violating section 2.

How do we prove there is an attempt to monopolize under section 2? We do it by proving that the oil companies take actions that are restraints of trade which are illegal under section 1 of the Sherman Act. Section 1 of the Sherman Act says restraints of trade are unlawful.

If the Administrator decides after he has adopted an energy conservation plan that it would be desirable to have oil which is being brought in by barge from the Caribbean to go to the refinery of Company X when the oil is owned by Company Y and we have some other oil coming from another direction that is owned by Company X, then it would be possible that we could conserve energy by allocating the oil to the closest refinery plant, and that would save energy.

Now, that could be deemed to be an allocation of supplies between two competitors and unlawful. In order to effectuate the emergency energy conservation provisions of this plan, some of these provisions or arrangements that would be made would be acts which would also under other conditions, amount to restraints of trade, or would be considered agreements to divide markets or supplies which would be in violation of section 1, if it were not for the exemption provisions of this bill.

So if we are going to exempt actions under conservation plans from section 1 of the Sherman Act, and if we do not exempt such acts also from section 2, we would in effect permit acts under section 1 that would put persons so acting in violation of section 2 of the Sherman Act. That is the problem we have. That is why this amendment should be defeated. That is the reason our committee defeated it.

There were some statements made that antitrust laws are not understood by the gentlemen on the Committee for Interstate and Foreign Commerce. I do not think that is right. There are some very able lawyers on that committee; Mr. Dingell, Judge Preyer, Mr. Eckhardt, Mr. Adams, and others, that are quite aware of the antitrust laws.

Mr. EVANS of Colorado. Mr. Chairman, I will ask the gentleman the same question that I asked the gentleman from Washington, because I am concerned any time we start suspending portions of the Sherman and Clayton Acts. During World War II, when we as a Nation faced a great energy crisis, we got through that period of time with rationing, bureaucracy, and what have you, with the great help of the oil companies, but without amending any of these acts.

This bill proposes we suspend some provisions of the Clayton and Sherman Acts.

My question is, what if anything has changed in the law since World War II that would require suspending the acts now, when in 4 years of war we did not have to suspend any of the provisions of the act?

Mr. YOUNG of Illinois. I will reply that it is necessary under this act, because we want to have energy conservation plans that are volun-

tary. We want, in effect, the oil companies to tell the Administrator, given their advice, as to how they can best help solve this energy crisis.

Under this act, it is necessary for these oil companies to take action under plans adopted by the Administrator. Remember, the FTC and the Department of Justice will be called in on this. There will be many meetings and the meetings will all be open to the public. If the Administrator adopts a plan that requires, in effect, cooperation of the oil companies which cooperation in turn saves energy, it is necessary that the companies have an exemption from the antitrust laws to enter into arrangements and agreements, which would otherwise be unlawful.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, this was done during World War II without the benefit of any special laws suspending portions of these acts.

Mr. YOUNG of Illinois. First of all, I have to take the gentleman's word for it, that there were no such provisions then. It was a wartime situation. I am not familiar with it. I can only suggest to the gentleman why it is necessary under this act.

Mr. MILFORD. The answer to the gentleman's question is that during World War II this was not then exempted.

Mr. STAGGERS. Mr. Chairman, I want to see if we can arrive at a time limit for this amendment. We have debated it pretty thoroughly and most of the debate is sort of repetitious now.

Mr. Chairman, I ask unanimous consent that all debate on the amendment to the amendment in the nature of a substitute close in 10 minutes. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. MEZVINSKY. Mr. Chairman, I would like to say that I oppose this amendment at this particular time, because there will be an amendment offered by the gentleman from New Jersey, the chairman of the Committee on the Judiciary, and the chairman of the Antitrust Subcommittee, which I think will perfect and handle the matter in a much better way.

For that reason, I would hope we would not have to vote on this amendment, and will object and vote against this particular amendment.

Mr. ECKHARDT. Mr. Chairman, I ask unanimous consent to withdraw this amendment at this time in order to permit the Rodino amendment to be considered.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. DERWINSKI. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. PICKLE. Mr. Chairman, it looks as though this amendment may be a moot one at this point by our committee, yet this legislation directs the companies to get together in helping to form a marketing program or distribution program.

The Members can understand our concern that they be given some protection. Various proposals were submitted by various interests on this antitrust provision. It is my understanding that the two gentlemen who have sponsored this amendment had gone to the Justice

Department and asked for their consideration and help in drafting the amendment. The amendment before us is a result of this request, and received approval of the Justice Department. Therefore, I think the public interest is protected in it. I do not think anyone would want to vote for it if the public interest was not protected. We would not want to eliminate the normal requirements of the antitrust act.

However, the public interest is protected, and I would certainly think that the amendment that is in the bill is proper and should be voted on favorably.

Mr. ECKHARDT. Mr. Chairman, I ask unanimous consent to withdraw the amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. FROELICH. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DERWINSKI. Mr. Chairman, I merely want to make this observation:

Here we are in the consideration of the first major amendment to this bill. We have an amendment to an amendment to that offered, and now we have had an attempt to withdraw that amendment because our constitutional lawyers on the Committee of the Judiciary are going to lift a new amendment out of the clear blue sky.

We have already, on the first major amendment, moved to cut off debate. Presumably we have hundreds of amendments pending.

God only knows how contradictory a piece of legislation or what a legislative fiasco we will have produced before the end of this day.

It is essential that we develop as soon as possible a long-range plan through which we would provide for the energy needs of American homes and industry and of the personal use of our citizens.

The House Democrat leadership is evidently willing to run the risk of treating this very complex bill on this absolutely vital issue in the classic technique of railroading legislation through a legislative body. Poor legislative procedures generally produce a poor law. The American public will properly question this legislation as much as any measure subject to consideration in the Congress. I hope against hope that the pattern exhibited at this early stage of consideration will not continue and that somehow we will produce a workable National Energy Act.

Mr. ECKHARDT. Mr. Chairman, I would like to ask my colleagues to vote against this amendment, since I have not been permitted to withdraw it, because I do want the Rodino amendment to be before the body, and I shall offer it as soon as I have an opportunity so to do and yield to the gentleman from New Jersey the distinguished chairman of the Committee on the Judiciary.

Mr. SEIBERLING. Mr. Chairman, I wish to commend the gentleman from Texas (Mr. Eckhardt) not only for his magnanimous gesture but especially for his initiative in trying to clean up this simply terrible antitrust exemption in this bill. I practiced antitrust law for 21 years before I came to this House, and I happen to know what the implications of this bill would be without a proper amendment.

I want to say that the amendment to be offered by the gentleman from New Jersey has been approved by the Federal Trade Commis-

sion and by the Justice Department. The gentleman from New Jersey is not only the distinguished chairman of the Judiciary Committee, but he is also the chairman of the Subcommittee on Antitrust. I am a member of his subcommittee, and I think the Members can rest assured that the amendment addresses itself to the problem in a comprehensive way.

Mr. BROWN of Ohio. Mr. Chairman, I concur with the gentleman from Texas (Mr. Eckhardt).

I also hope that this amendment will be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. For what purpose does the gentleman from Texas (Mr. Eckhardt) rise?

Mr. ECKHARDT. Mr. Chairman, I wish to yield to the gentleman from New Jersey (Mr. Rodino).

The CHAIRMAN. The Chair cannot recognize the gentleman for that purpose.

AMENDMENT OFFERED BY MR. BROYHILL OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. BROYHILL of North Carolina. Mr. Chairman, I offer an amendment to **section 105** to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Broyhill of North Carolina to the amendment in the nature of a substitute offered by Mr. Staggers; section 105, H.R. 11882 is amended as follows: Delete subsection (a) and insert in lieu thereof the following:

"(a) (1) Within 30 days of enactment of this Act and from time to time thereafter, the Administrator shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under other authority of this or other Acts to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section the term 'energy conservation plan' means provisions for transportation controls (including highway speed limits) or such other restrictions on the public or private use of energy (including limitations on operating hours of business) which are necessary to reduce energy consumption.

"(2) An energy conservation plan which takes effect as provided in subsection (c) shall have the force and effect of law and shall apply according to its terms in each State except as otherwise provided in a State or local exemption order which has been proposed under subsection (b) and has taken effect under subsection (c).

"(3) An energy conservation plan may not deal with more than one logically consistent subject matter. An energy conservation plan or State or local exemption order under subsection (a) may be amended or repealed only in accordance with subsection (c) except that technical or clerical amendments may be made in accordance with section 553 of title 5, United States Code.

"(4) No provision of an energy conservation plan may remain in effect after December 31, 1974.

"(b) STATE OR LOCAL EXEMPTION ORDERS.—The Administrator may at any time after an energy conservation plan takes effect propose a State or local exemption order which provides that such plan does not apply in a State or political subdivision which has submitted a plan which the Administrator finds accomplishes

the objectives of subsection (a) and is otherwise in the public interest. Such exemption order shall take effect only as provided in subsection (c).

“(c) DISAPPROVAL BY CONGRESS.—

“(1) For purposes of this subsection, the term “energy action” means an energy conservation plan proposed under subsection (a), an exemption order proposed under subsection (b), or an amendment (other than a technical or clerical amendment) or repeal of such an energy conservation plan or exemption order.

“(2) The Administrator shall transmit any energy action (hearing an identification number) to the Congress. The Administrator shall have such action delivered to both Houses on the same day and to each House while it is in session.

“(3) Except as otherwise provided in paragraph (4) of this subsection, an energy action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy action.

“(4) For the purpose of subsection (a) of this section—

“(A) continuity of session is broken only by an adjournment of Congress sine die; and

“(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-day period.

“(5) Under provisions contained in an energy action, a provision of the plan may be effective at a time later than the date on which the action otherwise is effective (subject to subsection (a) (3)).

“(6) An energy action which is effective shall be printed in the Federal Register.

“(d) DISAPPROVAL PROCEDURE.—

“(1) This subsection is enacted by Congress—

“(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

“(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

“(2) For the purpose of this subsection “resolution” means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: “That the does not favor the energy action numbered transmitted to Congress by the Administrator on , 19 .”, the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

“(3) A resolution with respect to an energy action shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives as the case may be.

“(4) (A) If the committee to which a resolution with respect to a reorganization plan has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the reorganization plan which has been referred to the committee.

“(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

"(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy action, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy action, and motions to proceed to the consideration of other business, shall be decided without debate.

"(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy action shall be decided without debate."

Redesignate subsections (b) and (c) as (e) and (f) respectively.

Mr. BROYHIL of North Carolina [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. DINGELL. Mr. Chairman, reserving the right to object—I am not sure I will object—I would like to know why the gentleman is proposing to have the reading suspended.

Mr. BROYHILL of North Carolina. Mr. Chairman, this is the language stricken from H.R. 11450 in the committee concerning the disapproval procedure of energy conservation plans.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BROYHILL of North Carolina. Mr. Chairman, as I stated, the purpose of this amendment is to restore language that was stricken from H.R. 11450 which provided for a disapproval by congressional procedure for energy conservation plans that were submitted by the Administrator. If you have a copy of H.R. 11450, as many of you do, the bill which has the language stricken out, all you have to do is refer to that stricken out language and the page immediately preceding section 105 printed in that bill.

Section 103 of the bill which we are considering gives authority to the executive branch, to the President, to ration gasoline, to ration available supplies of petroleum products, if that becomes necessary. I think in the view of many people this is the ultimate weapon that most people do not want to see used unless it has to be. It is an unpleasant weapon, and we hope it can be avoided in some way.

But if it is going to be avoided or if undue emphasis is not going to be placed on the rationing section, then we have to have available other programs in order to conserve fuels and to conserve energy.

Now, what does section 105 do? Section 105 in the bill as introduced was aimed at trying to avoid rationing by trying all of these other

possibilities. There are many programs or combinations of programs which we could try which when used, maybe in conjunction with allocation, could mean less emphasis just on allocation. Lowering speed limits is one, and we have already responded to that; the kinds of travel which could be temporarily restricted or uses of fuel or electric energy are other examples. However, these things need to be done now and not wait until next spring or next fall or next winter.

The way it was intended to work was that the President would recommend a series of energy conservation plans within a certain number of days and then Congress would have 15 days to single out those they liked and those could go into effect. They could then look at those they do not like and pass a disapproval resolution and they would not go into effect. At any rate, the procedure outlined there was designed to prevent delay and to get some action.

In the course of marking up this bill an amendment was agreed to which emasculated this approach because it removed this congressional disapproval procedure. What it provided for was that each one of these plans would have to be submitted to the Congress and would have to be acted on as a bill or as a piece of legislation before it could be implemented.

So in effect we have really not changed the present law. The executive branch can suggest legislation at this time. Individual Members could come up with legislation calling for some type of energy conservation plan.

But what has happened here is that the executive is limited in its efforts to try to beat this fuel crisis in developing and submitting legislative recommendations which could take months to pass.

Ordinarily, of course, any proposed action of any kind granting authority to be exercised over the people or the economy should come to the Congress, should come here for some deliberate consideration, and some positive action before we let these plans go into effect. But this is a definite exception to that general policy.

I want it to be clear that the amendment that I have offered, is the language which is in the original bill.

As I say, this amendment makes it clear that this authority would expire on December 31, 1974. This is not an unlimited grant of authority from now on; there is a time limit to it. But in the case of the present energy crisis it is essential that action be taken on these energy conservation plans as rapidly as possible so that the full impact of fuel shortages can be prevented, and of course to prevent the consequent damage to our economy and to our entire society.

So, Mr. Chairman, I would urge that this amendment be adopted. This is the language in the original bill that was stricken, and I think that it should be restored. And that is the purpose of this amendment.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this portion was voted on in the committee. It was debated for some length of time. I do not remember what the vote was, but it was enough to knock out this portion. This would just restore what was knocked out, and which was discussed thoroughly in the committee.

That is my main reason for opposing it.

We have heard currently throughout the country statements that we are wrongfully delegating authority to the administration, and that

we are not accepting our responsibilities here. Mr. Broyhill's amendment would let the Administrator legislate for America unless we override his proposed conservation plans. If we are in a time of pressing business and do not have enough time to take it up, why, then it would become law.

So I say that that is the wrong way for us to legislate. We would be abrogating our rights as legislators.

I say that no person or group of persons outside of this Chamber can legislate for America. I do not think we should permit this. It is just as simple as that.

I do not see how any Member can go back home to his or her district and report that he has delegated his legislative responsibility to an agency. And where the only way that we can kill the actions of such an agency is in a negative way, we are doing just that.

The committee's amendment, on the other hand, calls upon the Administrator to submit a legislative proposal.

Then, if we wish we can change it, we can amend it, we can do as we please. I think this is the way it should be done in an affirmative way by an affirmative vote, and not a negative way.

We have been delegating our responsibilities to the executive branch for a long time, and the time is now here to stop. We, the Members of the Congress, should have enough courage to stand up and decide whether this should be the law of the land and not let somebody else do so. When we have lost that courage, then we have lost the right to govern in America. This is an essential part of that. We should not stop now and say we will give up our rights to somebody else.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding to me.

I would ask the gentleman from West Virginia do the concepts the gentleman is now describing apply to rationing also?

Mr. STAGGERS. Rationing.

Mr. ROUSSELOT. Are we delegating the authority of rationing to the President in this bill?

Mr. STAGGERS. Actually it is, and it is the wrong way for it to be done.

Mr. ROUSSELOT. So the gentleman is then saying that we should apply the same concepts to rationing or what you call end-use allocation?

Mr. STAGGERS. Let me only say—and I want to make this very clear—I am not in favor of rationing. And every member of the committee well knows that wherever the word "rationing" appeared in the bill I had it stricken out, because I do not believe in it.

Mr. FREY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, Gertrude Stein once wrote: "A rose is a rose is a rose."

Whether we call it rationing or end-use allocation, it is rationing, and I do not think we can kid anybody about it. That is exactly what we have in the bill, rationing. In fact the word was used in the original bill in **section 103**.

Mr. ROUSSELOT. In other words, what the gentleman is telling the House is that even though the bill does not say "rationing" but calls it another name, we should know what that name is. What do we call it in this bill?

Mr. FREY. End-use allocation.

Mr. ROUSSELOT. "End-use allocation" is just another name for "rationing." I thank the gentleman for calling that fact to our attention.

Mr. FREY. I think we get paid more if we use three words instead of one.

Mr. HEINZ. I thank the gentleman for yielding.

I am sure the gentleman recalls a vote in committee where we amended **section 103** of the bill, and we put the words into this bill on page 6, line 4, that notwithstanding any other definition, the words "end-use allocation" shall not be deemed to exclude the end-use allocation to individual consumers.

I do not know how the gentleman construes that. I call it rationing.

Mr. FREY. This matter hits right at the great inconsistency we have in this bill. We are talking out of both sides of our mouth. We have **section 103** in which we say, delegate to the President, and Administrator the question of rationing, because we do not have the courage to face this issue. We do not want to touch it. It is a hot political football, so shove it downtown and let them do it, and then we can complain about it.

The only justification for this is we do not want to face the issue and that is wrong.

In **section 105** of the bill that the gentleman from North Carolina is trying to straighten out we say, no, no, we do not want to delegate any authority, we are going to handle everything ourselves. We will let the Administrator act, and then bring it back in front of us, and after due delay—and let me tell the Members if this bill is any example of how we are going to rush into this thing, the energy crisis will be over before we solve the problem—after due delay, we will come back here and vote on each proposal by the President, individually.

We cannot be inconsistent. We must treat the problems in the same manner—even if it is tough politically.

Will the gentleman support an amendment that would make gas rationing something that would have to be approved by the Congress?

Certainly. This would make the legislation consistent and force Congress to act.

Mr. MCKINNEY. Would the gentleman support an amendment that this action be taken by privileged motion on the floor of the House? Will that solve the problem?

Mr. HEINZ. I thank the gentleman for yielding. I should like to state to the gentleman that I have at the desk such an amendment to **section 103**, the rationing authority section, and I intend to offer it at a later time.

The way the substitute bill is presented, is it not more difficult for us to adopt the other forms of energy conservation in the energy conservation plans than it is under rationing or end-use allocation that we are talking about?

Mr. FREY. I should think so.

Mr. MCCOLLISTER. Is not rationing a lot easier for the President to accomplish since he does not have the need to do anything more here?

I am certainly opposed to rationing and object to that provision in the bill. For that reason I am supporting the amendment of the gentleman from North Carolina.

Mr. FREY. I am, also. I think that is a good point.

Mr. SYMMS. Just for the information of the Members, if we get through all of the amendments the members of the committee will have and get down to the other Members of the body, I have an amendment which will strike the end-use allocation term and insert "rationing" so we could clear up the semantics. After all what is wrong with calling a spade a spade—I think it would be better if the Members know what they are voting on. It is my intention to vote against this bill.

Mr. FREY. I thank the gentleman.

Mr. Moss. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, that was a very interesting discussion a few moments ago, but it was quite erroneous. We are dealing in an effort to restore section 104 of the bill originally considered by the committee. H.R. 11450, printed in strike-out type language, provides "within 30 days of enactment of this act, and from time-to-time thereafter, the President shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under authority of this or other acts to result in a reduction of energy consumption."

This is not a section that deals with end use allocation. That occurs in section 103 and remains in the act. That is where we find the language touching upon end use allocation.

The question here really is whether in this restricted area of energy conservation plans we are going to delegate to the President or the Administrator the authority to promulgate energy conservation plans which will become law unless Congress, within 20 days in one or the other of the two Houses, disapproves.

I do not like that method of legislating. It is repugnant to me. It does not vest in the Congress the legislative responsibility. On the contrary it delegates and it says unless we act in 20 days, regardless of the comprehensiveness of the scope of the plan, to disapprove it, it becomes the law of the land.

The language was stricken by an amendment offered by the gentleman from Texas (Mr. Eckhardt). He said go ahead and promulgate these plans and file them with the Congress and then the Congress, using the normal legislative procedures available to it, following in orderly and more meaningful pattern, can adopt them if after appropriate hearings, if after careful study, it feels they are worthy of being adopted.

It may also under the conditions of the bill as it is now written exercise its responsibility to modify the plan, to amend it, to act like a full grown, full fledged legislative body.

I think the American people have a right to expect that this Congress undertake its role as a legislative body. I do not know who will finally exercise this authority. Today it is Mr. Simon. A week ago it was Governor Love. Before that it was someone else. I have heard that former Admiral Reich had control over allocation. I understand there was a disagreement and the admiral is no longer on the scene. And so only the fates or Almighty God know who would exercise the power under the conditions of the amendment proposed by my very good and distinguished friend, the gentleman from North Carolina (Mr. Broyhill).

Mr. HAYS. Did I understand the gentleman to say that in the language of the bill as it is now in the substitute that they could not promulgate rationing downtown unless the Congress then approved?

Mr. MOSS. No. The gentleman did not understand me to say that.

Mr. HAYS. Well, that is the way it ought to be.

Mr. MOSS. Because that is not dealt with in section 104. Now it is dealt with in section 103 and I agree with the gentleman that if we want rationing, and I feel that there is no way we can avoid rationing, I would prefer to see the Congress do it and I am willing to take the heat in doing that. But this is not the section of the bill that deals with it directly or indirectly.

Mr. HEINZ. Mr. Chairman, I rise in support of the amendment.

At the outset I would like to address one question to the gentleman from California (Mr. Moss) if I may.

Mr. MOSS. Yes.

Mr. HEINZ. A moment ago the gentleman stated he would be willing to see the Congress take a position on rationing and, therefore be willing to make modifications to section 103 of the bill. In a few minutes I will offer, if recognized, an amendment to section 103. The gentleman is familiar with it. It will give the gentleman and the other Members a chance to do exactly that.

I would like to ask the gentleman, will he support that amendment or will he not support it?

Mr. MOSS. As I said the other day, after 25 years of legislating I have learned that until I have a text before me, I do not give an unequivocal answer; but I will tell the gentleman from Pennsylvania that I will support mandatory rationing under specific language dictated by this Congress. If his amendment does that, then I will support it.

Mr. HEINZ. I thank the gentleman.

I would like to speak a moment, if I may, on a couple of points that are rather important.

The gentleman from California has indicated that the method of disapproval in Mr. Broyhill's amendment is repugnant to him. We have on the books two laws that use this same procedure of disapproval.

I wonder whether the gentleman from California voted for or against the war powers bill when it came to the floor of the House. I wonder how he voted on the executive reorganization procedures.

I am not particularly interested so much in how he voted as the fact that both those bills provide for congressional disapproval as it is found in the gentleman's amendment which I support.

I would urge my colleagues to support the Broyhill amendment as a very effective amendment, to make sure that we make some progress in conserving our vital material resources. If the gentleman really wants to vote for conservation and against shortages, the gentleman will vote for Mr. Broyhill's amendment.

Mr. MOSS. I would be most pleased to respond to his inquiry as to how I voted.

Mr. HEINZ. I was not asking how he voted, but I would be pleased to yield to the gentleman.

Mr. MOSS. My answer is that in both instances, consistent with that sense of repugnancy, I voted against both measures.

Mr. HEINZ. I thank the gentleman for clarifying that point.

Mr. DINGELL. Mr. Chairman, I rise in regretful opposition to the amendment offered by my good friend from North Carolina (Mr. Broyhill).

I think that the issue before us should be made clear. The question is whether the Congress will exercise its traditional responsibility and prerogative in laying down broad national policy and in deciding great national policy questions.

The question which would be addressed by **section 104** of the original bill as now it is placed before us is whether the executive branch as provided in the amendment before us, will decide how the energy resources of this Nation will be conserved and utilized. A reading of the original language of **section 104** of H.R. 11450, as originally considered and rejected, by the committee thus vests in the executive branch power to wholly decide upon the utilization, allocation, and conservation of energy in this country.

I think from a reading of that language Members will understand that industries, that communities, that jobs, may literally be destroyed at the whim of one man. It may well be said that the amendment gives the Congress 15 days in which we might act to vote yes or to vote no, upon his proposals. The amendment now before us, does not permit any amendment whatsoever of the President's actions. If Members are concerned about the energy supplies of their constituents, if Members are concerned about how the action of the President might affect them, let them remember that if they vote yes on this amendment, the only question that will be before them when they act on the President's conservation plans will be a yes-or-no vote.

If the Members are concerned with an energy conservation plan which will shut down a major industry in their district, remember that in the amendment now before us they will only be able to vote yes or no. If a Member is concerned with the possibility that industries in his area may not be able to function at certain hours or that his constituents will be denied right to drive their autos on Sunday, then he must necessarily vote no or else he will forfeit for all intents and purposes, for all the period of the pendency of the legislation before us, the opportunity to amend or to change Presidential action.

If Members want to have the questions presented to us for a debate, discussion, and decision and if they want to have an opportunity to represent their constituents, to make judgments as to how these energy supplies of this Nation may be conserved or protected then they must vote no on the amendment.

If my colleagues are concerned that the President might fix the hours of work the routes of truck lines, school terms, and vacations, then they should vote no. There are many other questions which would be decided by these energy conservation plans on which my colleagues will only be able to vote yes or no if the amendment prevails.

The question here really is a very simple one. Do the Members want to have a say in how these energy conservation plans will be decided on? Do they want to have them decided for us by the Executive under conditions when the Congress will have only the opportunity to vote yes or no?

I intend to vote no on the amendment. What we must do is to reserve to the Congress the decisions—on a question as important as those which will be handled in energy conservation plans. If this amendment is not rejected we will have no opportunity to amend or modify or change that executive action which can destroy whole industries and whole communities.

If the Members do not so vote, and do not vote down this amendment, then they will forfeit in the future any opportunity to have any impact on important energy decisions which may decide the whole viability of major interests and of the citizens of their districts and of industries within their districts.

For this reason, I urge a no vote upon the amendment offered by my good friend from North Carolina, and a vote for the bill as drawn, by rejection of the amendment offered by my good friend and colleague.

Mr. BEARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not rise to either support or oppose this amendment. The Members are looking at a freshman Congressman who has been up here only since January; who has tried to ride with and tried to understand legislative procedure, to understand the laws which are legislated in this great Congress of ours.

Mr. Chairman, I was able to rationalize and compromise in my own mind the agriculture bill and some of the problems experienced there, but I must say today that I find it very hard to rationalize or accept what I see going on. I find it very hard to understand, when my colleague from California (Mr. Moss) states that it is repugnant to him to have to feel as though we have to make a decision within 20 days as this particular amendment requires. Well, I find it extremely offensive to me that I have to make a decision that is going to affect the very future of the economy of this country, the future of this country, the people who are going to be employed next month or the month after, and yet I have to make that decision, as my colleagues do, in 8 hours or 5 hours from whenever I received the bill.

I find it repugnant to me. My colleague from California states that in 25 years of legislating, in the experience he has had, he would never make a decision without reading all the facts and figures because it would go against his professional grain. Well, I feel the same way, and yet I have to go back and face the people of my district and say, "We have done what is best for you."

I voted against the 10-day recess. We had no more business going on a 10-day recess when we should have been sitting here trying to work things out and having this bill out so that the people like myself, freshmen who do not know what is going on in Congress, can sit back and study and listen and ask questions.

But when I go out and I ask questions of members of the committee who are putting out this stuff and they say, "I do not know," then I find this repugnant and I cannot be responsible for it.

In many cases I really feel that the only way I can be legitimately responsible to the people in my district is to vote "present" on a lot of this stuff. Mr. Chairman, I just felt overwhelmed, and I just had to offer my opposition to the way this whole thing is messed up.

I could care less about the Christmas holidays, and I could care less about what the American people are going to think about our lack of activity or our lack of action. We are dealing here with a big ball game,

one that is going to affect the future of this country. If we put politics ahead of this, as the people think we do and as we have done so often before, and do the things which have gotten us into this situation before, I say we are in trouble, and God help us.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let us consider what the amendment is that is before us. Let us get down to that point and get down to it calmly.

This amendment has nothing whatsoever to do with rationing; it has nothing whatsoever to do with **section 103**.

Now, **section 103**, as was said in general debate, gives general authority to the Administrator with respect to allocation. That includes allocation to various groups. That includes provisions with respect to refining so that more crude oil is used for fuel oil production, and so forth.

This amendment has nothing to do with that. At present the statute gives that authority to the Administrator. If we do not like that authority, we can amend **section 103** to make it impossible and illegal for the Administrator to ration. But this amendment does not do that.

What this does is this: It would give additional authority to the Administrator. What this would do is, in addition to permitting allocation, it would permit the Administrator authority to do a legislative act. It would permit him to determine the times, for instance, that grocery stores would stay open at night and determine when they must close.

It would permit mandatory requirement of the use of the highways at certain times and certain lanes by persons in carpools. It would even permit, if the President or the Administrator decided to do so, a general curfew, that everybody has to turn off the lights at 11 o'clock.

It would permit, if it were required by the Administrator, the absolute prevention of the use of any airplane gasoline for private airplanes.

Now, all these things may be good. Maybe the Members want them. But do the Members want to give that authority to the executive department without giving the persons affected by it the opportunity to come before this Congress to present their views on a bill?

Mr. HAYS. Mr. Chairman, I was intrigued by what the gentleman said about making people turn off the lights, because, as I understand it, the basic problem is that we have too many people using up our resources too fast, and if we make them turn off the lights at 10 o'clock or 11 o'clock, we are going to exacerbate that problem in the long run.

Mr. ECKHARDT. Mr. Chairman, let me say that the gentleman's point is well taken. It is certainly deserving of consideration at the very least.

Let me suggest to the Members that what we would be doing is simply delegating our legislative authority to the administrative branch.

I was searching for a statute that would justify this. I can go further back than bills like the War Powers Act, which, incidentally, I voted against.

In the Statute of York of Edward II, 1322, it was provided that—

Matters which are to be determined with regard to the estate of our lord, the king, and his heirs, or with regard to the estate of the kingdom and the people shall be considered, granted and established in parliament by our lord, the king

and with the consent of, the prelates, earls and barons and of the community of the kingdom, as has been accustomed in time past.

We do not legislate that way. We do not permit the king to make the laws and then come to us and say that if we do not negate them within 15 days they go into effect. If you want to insist that Congress only shall ration, why, just strike it out of the bill and then make the king come to us and ask for legislation.

However, what is sought to be done here is provide that a rule made by the executive department which results in an ability to put a man in jail for violating it becomes the law if we do not speak up in 15 days. That is the most extensive executive authority that has ever been granted in peacetime or otherwise.

Mr. DENNIS. I agree with the gentleman from Texas. I do not see why my colleagues here want to take this position personally, but I also do not see why this honorable committee is not consistent. If you are such a great one for consistency, why do you not do the same thing on rationing instead of giving that authority to the President?

Mr. ECKHARDT. Let me say on this point I think I agree foursquare with the gentleman from Indiana (Mr. Dennis), and I think I have agreed with him throughout on this proposition.

The point I am making is that if you want to call for authority to be exercised in the Congress, either under the rationing section 103, or under 105, you do not accomplish that objective simply by permitting the Executive to come in and promulgate a plan which becomes the law unless it is vetoed, because that plan provides for no hearing, it provides for no such debate as we are having here at the present time, it provides for no amendment; it must either be voted down or, if nothing happens, it becomes the law after 15 days.

Mr. DENNIS. You would like the bullet both ways.

Mr. ECKHARDT. I do bite the bullet both ways. I denounce that type of a procedure. I think it is grossly in conflict with the constitutional plan and probably unconstitutional. I know some of my friends will say we have done it in the Reorganization Act.

Mr. STAGGERS. Mr. Chairman, let me see if we cannot reach some agreement on debate on this amendment. I think most everyone here knows what it is, and it has been discussed pretty well. I wonder if 10 minutes will be time enough to finish debate on this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. FREY. Mr. Chairman, I object.

Mr. STAGGERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. KAZEN. Mr. Chairman, reserving the right to object, and I shall not object except that I take this time to ask the Chairman a question. Is it the intention of the Chairman to finish this bill tonight?

Mr. STAGGERS. I think if we can get through with three important amendments, the rest will go very quickly.

Mr. KAZEN. Is it the intention of the gentleman to stay tonight until we finish this bill?

Mr. STAGGERS. I would hope that we can finish by 9 o'clock.

Mr. KAZEN. Is it the intention of the gentleman to finish this bill or go to 9 o'clock if the bill is not finished and rise at that time?

Mr. STAGGERS. No. I would say within half an hour or three-quarters of an hour after an assessment we will see where we are and if things are not progressing, to adjourn until tomorrow. But I would hope that we could proceed because there are other important matters facing the Congress.

Mr. KAZEN. I do not know that there is anything more important than this.

Mr. STAGGERS. That is true. That is the reason why I hope we can proceed.

Mr. KAZEN. Mr. Chairman, I withdraw my reservation.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. HAYS. Further reserving the right to object, did I understand the gentleman to say that he hoped to be through by 9 o'clock tonight?

Mr. STAGGERS. That is correct.

Mr. HAYS. Well, I am not above a little wager. I will talk to the gentleman privately.

Mr. Chairman, I withdraw my reservation.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia that all debate on this amendment to the amendment in the nature of a substitute close in 15 minutes?

There was no objection.

Mr. YOUNG of Illinois. Mr. Chairman, I just want to say that the amendment offered by the gentleman from North Carolina (Mr. Broyhill) is a very important provision in order to make this bill workable. I originally voted in favor of the bill as it was passed, and as it was presented to the Members today, which would provide in effect that before these energy conservation plans could go into effect they would have to come to the Congress for approval. But the more I studied the matter the more I realized that the fact there will not be one, but probably 50 or 60 different energy conservation plans involving very technical subjects such as atomic energy, hydroelectric power, and would involve environmental concerns, and many, many different highly technical types of energy conservation plans that will have to be adopted and implemented. These plans are going to require a great deal of cooperation from a large number of the population. So I do believe that under the circumstances if the Administrator has to come back to the Congress with all of those energy conservation plans for congressional action, before they can be implemented, we are going to seriously delay the benefits of these plans.

Mr. ROY. Mr. Chairman, I would submit to my colleagues that an aye vote for the Broyhill amendment is saying to your constituents that you no longer have confidence in the Congress to legislate, and that you are willing to pass the legislative duties to the executive branch.

I am very surprised that there are members of our committee who are willing to do that.

I would also submit to the Members that it should take as long to make a proper consideration of whether to veto a proposal as it would take to enact that proposal into law by affirmative action.

I also wish to state that in addition to what the gentleman from Texas (Mr. Eckhardt) said, that I talked to legislative counsel and

there is no definition of an energy conservation proposal. An energy conservation proposal might include an increase of 40 cents a gallon taxes on gasoline. Do we want to give the President, any President, the power to do that, subject only to the power to veto such a proposal by congressional action.

I say to the Members that if you vote "yea" on the Broyhill amendment, and if you extend the Economic Stabilization Act, then we might as well all go home and come back some nice, Indian summer week in October, and affirm that which the President has done, just as the Supreme Soviet does in Soviet Russia.

So, Mr. Chairman, I urge very strongly a "no" vote on the Broyhill amendment. I think this is the most important part of the bill.

Mr. PICKLE. Mr. Chairman, I would suggest the gentleman from Kansas uses rather strong language. The amendment the gentleman from North Carolina has offered is the exact language the chairman of the committee, Mr. Staggers, introduced in the original bill. There is nothing foreign about the language of the original language.

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska (Mr. McCollister).

Mr. MCCOLLISTER. Mr. Chairman, this bill in **section 103** deals with the supply of available petroleum products, and in **section 105** it deals with the demand. In **section 103** the supply side of it may be dealt with, may be allocated, may be limited in any kind of a plan that the President proposes, without any further action by this Congress. If we are interested in balancing supply and demand, then we ought to pay some equal attention to the limitation on demand which is dealt with in **section 105**, and under the terms of the Broyhill amendment the demand side of the equation is put on the same basis as **section 103** relates to the supply.

It would seem that, unless we want to tip the scales in favor of only the allocation and the distribution of the available supply, what we ought to do is to make it just as readily possible to deal with the reduction in demand under the energy conservation plans in order that they can be dealt with to reduce the demand to the point equal to the supply, so that we will not have to depend on rationing. If we do not have the Broyhill amendment, then what we are doing is making rationing under **section 103** about the only possible way in which to resolve the balance. I oppose rationing and believe we should give more attention to energy conservation plans as proposed by the gentleman from North Carolina. I support his amendment.

Mr. ECKHARDT. Mr. Chairman, I shall not take it, but I thank the gentleman.

Mr. FREY. Mr. Chairman, there are just several things that I think I should like to point out. To begin with, I do not think under any stretch of the imagination the Broyhill amendment is a complete giveaway by the Congress of its responsibility. The Broyhill amendment requires that the Congress can act in disapproval within 15 days.

Second, I think the need for consistency in this legislation is extremely important. The same principle should apply to **section 103** or to **section 105**.

Third, in the original version of his bill the Chairman introduced, the Broyhill language was the original language. This is where we

started. I thought it was a good idea then. I agree with the gentleman from West Virginia then. Apparently we are in disagreement now, but I think we should end up with what the Chairman originally desired.

MR. ADAMS. Mr. Chairman, I can state to the Members precisely why it is that there is a different system used in **section 105** under the energy conservation plan, and every member of that committee knows why. It is because the President put out a series of plans during the period of time from October 16—and I hold the proposed rules here in my hand—and they just simply scared the pants off of everybody in the United States. Somebody said, for example, as one little thing, your priority use is limited to: “public passenger service transportation, but excluding tour, recreation, or excursion services.”

That happens to put out of business ski resorts, pleasure-boat people, and a lot of general aviation people.

They came out with another regulation saying part of our plans are for: “industrial manufacturing uses, other than for space heating purposes; cargo, freight, and mail transportation, but excluding air freight.”

The airlines laid off 25 percent of their people.

Mr. Chairman, we want Congress to control the plans he comes up with, because these plans decimate individual parts of the economy, and we have to protect them.

The reason we could not pass the rationing plan is because the President came down and said: “I do not want to ration.” He had the votes in that committee, particularly on this side of the aisle—and some of the Members on this side of the aisle said: “We do not want to have anything to do with it.”

I agree with the gentleman that if there is a rationing plan put in and it comes to the Congress, just like any other plan, we would have to vote on it one way or the other, but that is the reason why we had to have two different systems.

MR. BROXHILL of North Carolina. Mr. Chairman, the gentlemen on the other side here are most inconsistent. In **section 103**, the allocation section, they are granting to the President wide powers to impose rationing. We may call it end use allocation in the bill but it is rationing, allocating scarce resources among all users. There is no requirement in that section of the bill that the provisions of the rationing plan or the regulations that are drawn pursuant to that authority are sent back to the Congress. At least in the provision that we are considering here, the alternative I have presented, we are going to have a look at the plan submitted by the Administrator.

I agree with the gentleman from Nebraska. I liked his description. Allocation, which is what it says, dividing the scarce resources, is one side of the equation. It is the supply side. But what are we going to do about the other side of the equation, the demand side?

We know from today's paper, and the Members saw the article, that the voluntary programs on energy conservation are working. It is estimated we are saving 9 million barrels a day as a result of these voluntary energy conservation plans that are in effect.

What assurance do we have that we are going to have expeditious action on any energy conservation plans that are brought up here? I do not know if they are going to be filed in a file cabinet or acted upon expeditiously.

Allocation, as the gentleman from Washington said a few moments ago, those regulations under the allocation authority enacted prior to today, those are the ones that are hurting, not the conservation plans we are operating under now on a voluntary basis. In an emergency situation, we need emergency action. This amendment gives us assurance that action will be taken to conserve energy, reduce the demand, and preserves the legislative's right to have a say in what is contained in those regulations. I urge you to vote for the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. Staggers) to close the debate.

The question is on the amendment offered by the gentleman from North Carolina (Mr. Broyhill) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

Mr. BROYHILL of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 152, yeas 256, not voting 24, as follows:

[Roll No. 658]

AYES—152

Anderson, Ill.	Dorn	Hillis
Andrews, N. Dak.	Downing	Hinshaw
Arends	Duncan	Hogan
Bafalis	du Pont	Hosmer
Baker	Edwards, Ala.	Jarman
Beard	Esch	Johnson, Pa.
Bevill	Eshleman	Jones, N.C.
Bray	Evins, Tenn.	Jones, Tenn.
Breaux	Findley	Keating
Brinkley	Fish	Ketchum
Broomfield	Flynt	King
Brown, Mich.	Forsythe	Kuykendall
Brown, Ohio	Frelinghuysen	Landrum
Broyhill, N.C.	Frenzel	Lent
Broyhill, Va.	Frey	Lujan
Buchanan	Froehlich	McClory
Burgener	Fuqua	McCollister
Butler	Gettys	McEwen
Camp	Gilman	Madigan
Carter	Ginn	Mailliard
Cederberg	Goldwater	Mallary
Chamberlain	Goodling	Mann
Clancy	Grover	Martin, Nebr.
Clausen, Don H.	Gude	Martin, N.C.
Cleveland	Guyer	Mathis, Ga.
Cohen	Hammerschmidt	Mayne
Conable	Hanrahan	Milford
Coughlin	Hansen, Idaho	Miller
Daniel, Dan	Harsha	Minshall, Ohio
Daniel, Robert W., Jr.	Harvey	Mitchell, N.Y.
Davis, Ga.	Hastings	Mizell
Devine	Heinz	Mosher
Dickinson	Henderson	Nelsen

Nichols
 Parris
 Peyser
 Pickle
 Powell, Ohio
 Price, Tex.
 Pritchard
 Quillen
 Regula
 Rhodes
 Robinson, Va.
 Robison, N.Y.
 Roncallo, N.Y.
 Rousselot
 Ruppe
 Ruth
 Satterfield
 Schneeбели

Sebelius
 Shriver
 Shuster
 Sikes
 Skubitz
 Smith, N.Y.
 Spence
 Stanton, J. William
 Steiger, Ariz.
 Stephens
 Taylor, N.C.
 Teague, Calif.
 Teague, Tex.
 Thomson, Wis.
 Thone
 Treen
 Van Deerlin
 Vander Jagt

Versey
 Waggonner
 Wampler
 Ware
 Whitehurst
 Widnall
 Williams
 Wilson, Bob
 Winn
 Wydler
 Wyman
 Young, Alaska
 Young, Fla.
 Young, Ill.
 Young, S.C.
 Zion
 Zwach

NOES—256

Abzug
 Adams
 Addabbo
 Alexander
 Anderson, Calif.
 Andrews, N.C.
 Annunzio
 Archer
 Armstrong
 Ashbrook
 Ashley
 Aspin
 Badillo
 Barrett
 Bauman
 Bell
 Bennett
 Bergland
 Biaggi
 Biester
 Bingham
 Blackburn
 Blatnik
 Boggs
 Boland
 Bowen
 Brademas
 Brasco
 Breckinridge
 Brooks
 Brotzman
 Brown, Calif.
 Burke, Fla.
 Burke, Mass.
 Burleson, Tex.
 Burlison, Mo.
 Burton
 Byron
 Carney, Ohio
 Casey, Tex.
 Chappell
 Chisholm
 Clark
 Clawson, Del.
 Clay

Cochran
 Collins, Ill.
 Collins, Tex.
 Conlan
 Conte
 Conyers
 Corman
 Cotter
 Crane
 Culver
 Daniels, Dominick V.
 Danielson
 Davis, S.C.
 Davis, Wis.
 de la Garza
 Delaney
 Dellenback
 Dellums
 Denholm
 Dennis
 Dent
 Derwinski
 Diggs
 Dingell
 Donohue
 Drinan
 Dulski
 Eckhardt
 Edwards, Calif.
 Eilberg
 Evans, Colo.
 Fascell
 Flood
 Flowers
 Foley
 Ford, William D.
 Fountain
 Fraser
 Fulton
 Gaydos
 Giaimo
 Gibbons
 Gonzalez
 Grasso
 Green, Oreg.
 Green, Pa.
 Griffiths
 Gross
 Gunter
 Haley
 Hamilton
 Hanley
 Hanna
 Hansen, Wash.
 Harrington
 Hawkins
 Hays
 Hébert
 Hechler, W. Va.
 Heckler, Mass.
 Helstoski
 Hicks
 Hollifield
 Holt
 Holtzman
 Horton
 Howard
 Huber
 Hudnut
 Hungate
 Hutchinson
 Ichord
 Johnson, Colo.
 Jones, Okla.
 Jordan
 Karth
 Kastenmeier
 Kazen
 Kemp
 Kluczyuski
 Koch
 Kyros
 Landgrebe
 Latta
 Leggett
 Lehman
 Litton
 Long, Md.
 Lott
 McCloskey

McCormack	Pepper	Slack
McDade	Perkins	Smith, Iowa
McFall	Pettis	Snyder
McKay	Pike	Staggers
McKinney	Poage	Stanton, James V.
McSpadden	Podell	Stark
Macdonald	Preyer	Steed
Madden	Price, Ill.	Steele
Mahon	Quie	Steelman
Maraziti	Railsback	Steiger, Wis.
Mathias, Calif.	Randall	Stratton
Matsunaga	Rangel	Stubblefield
Mazzoli	Rarick	Stuckey
Meeds	Rees	Studds
Melcher	Reid	Sullivan
Metcalfe	Reuss	Symms
Mezvinisky	Riegle	Thompson, N.J.
Michel	Rinaldo	Thornton
Minish	Roberts	Tiernan
Mink	Rodino	Towell, Nev.
Moakley	Roe	Udall
Mollohan	Rogers	Ullman
Montgomery	Roncalio, Wyo.	Vanik
Moorhead, Calif.	Rooney, Pa.	Vigorito
Moorhead, Pa.	Rose	Waldie
Morgan	Rosenthal	Whalen
Moss	Rostenkowski	White
Murphy, Ill.	Roush	Whitten
Murphy, N.Y.	Roy	Wiggins
Myers	Roybal	Wilson, Charles H., Calif.
Natcher	Runnels	Wilson, Charles, Tex.
Nedzi	Ryan	Wolff
Nix	St Germain	Wright
Obey	Sarasin	Wylie
O'Brien	Sarbanes	Yates
O'Hara	Scherle	Yatron
O'Neill	Schroeder	Young, Ga.
Owens	Seiberling	Young, Tex.
Passman	Shipley	Zablocki
Patman	Shoup	
Patten	Sisk	

NOT VOTING—24

Abdnor	Gray	Rooney, N.Y.
Bolling	Gubser	Sandman
Burke, Calif.	Hunt	Stokes
Carey, N.Y.	Johnson, Calif.	Symington
Collier	Jones, Ala.	Talcott
Cronin	Long, La.	Taylor, Mo.
Erlenborn	Mills, Ark.	Walsh
Fisher	Mitchell, Md.	Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. STAGGERS TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by Mr. Staggers.

The Clerk read as follows:

Amendment offered by Mr. Staggers to the amendment in the nature of a substitute offered by Mr. Staggers:

On page 3, line 3, after the word "welfare," add the words "and (5) insures against anticompetitive practices and effects, and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources."

On page 38, line 6, strike all of section 120 through and including the word "1973," on page 43, line 17, and insert in lieu thereof the following:

"Sec. 120. ANTITRUST PROVISIONS.—(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

"(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552(b)(1) and (b)(3) of Title 5, United States Code.

"(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

"(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of Title 5, United States Code. They shall provide, among other things, that—

"(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular fulltime Federal employee.

"(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

"(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

"(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552(b) (1) and (b) (3) of Title 5, United States Code.

"(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carryout a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

"(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

"(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

"(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

"(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

"(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

"(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to 'the purposes of this Act' or like terms, the reference shall be understood to be this Act.

"(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, or any refined petroleum product that—

"(1) Such action was

"(A) authorized and approved pursuant to this section, and

"(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

"(2) Such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

"(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

"(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

"(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

"(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

"(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on December 31, 1974.

"(o) The exercise of the authority provided in section 107 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act."

Mr. STAGGERS [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record, and I will call on members of the committee to explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. McKINNEY. Mr. Chairman, I object.

Mr. BROWN of Ohio. Mr. Chairman, I reserve a point of order on the amendment.

Mr. STAGGERS [during the reading]. Mr. Chairman, I renew my unanimous consent request that the further reading of the amendment be dispensed with, and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. Does the gentleman from Ohio (Mr. Brown) insist upon his point of order?

Mr. BROWN of Ohio. Mr. Chairman, I withdraw my point of order.

Mr. STAGGERS. Mr. Chairman, I have offered this amendment as a courtesy to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino). I now yield to that gentleman for an explanation of the amendment.

Mr. RODINO. Mr. Chairman. I would not have taken the time of the Committee to intrude upon the matter before it except for the fact that I believe that what we have under consideration at this moment

is of such gravity that unless this were called to the attention of the Committee I am afraid that we would be doing a great disservice to our constituents, and in fact to the Nation.

Mr. Chairman, I believe that while we have an emergency situation before us, and all of us recognize that we must act with some haste, nonetheless I believe that this legislation before us provides for a broad exemption to the oil industry in a matter that is of such vital concern to every consumer that we could hardly pass this by without showing that we are protective of the interests of the consumers.

I offered this amendment through the chairman of the committee, the gentleman from West Virginia (Mr. Staggers), after having conferred with many including the Department of Justice, the Deputy Assistant Attorney General in charge of the Antitrust Division, and the Director of the Bureau of Competition of the Federal Trade Commission, who have stated that these amendments are necessary to limit the exemptions that are provided within this bill in order to insure against anticompetitive practices and to enact competitive safeguards along the lines of the Senate-passed bill that are now absent.

The antitrust immunity provision of [Sec. 120] of H.R. 11882 accepts the need for some protection from prosecution for antitrust violations. However, immunity from antitrust laws should never be granted except in language that limits and narrows the extraordinary exempting language.

Section 120(g) is shocking in its overbreadth. Moreover, the present statutory language would create a unique prosecutorial burden of showing that challenged behavior is outside the scope of immunity. Normally this burden is on the party best able to produce appropriate evidence. Obviously this burden should be on the oil industry and not on the Government.

The "good faith" standard sought to be enacted is particularly objectionable. The antitrust laws already provide a rule of reason as a judicial standard. The provision is therefore unnecessary. The proposed standard is also dangerous. Clearly, if relevant, evidence of "good faith" is in the possession of the oil industry. The Government would be charged not only with obtaining that evidence but also with negating it. In most areas of the law where there is a "good faith" defense available it is an affirmative defense and not, therefore, a part of the prosecution's affirmative burden. I hasten to add that a "good faith" defense is itself a rare statutory loophole. This fact alone signals caution.

Section 120(g), moreover, provides an incentive to the oil industry to avoid documentation of their actions. It does not seem to me that the growing problem of destruction of evidence is well served by new legislation that encourages the absence of documentation altogether. Moreover, the subsection runs counter to provisions of more recent legislation that requires documentation that also mandates availability to public scrutiny in large measure.

Finally, empowering the Administrator to approve agreements that are "necessary to accomplish" the objectives of the Energy Emergency Act creates a subjective standard that is not subject to any legislative standards or guidelines. In effect, the provision also could make moot the legislation's required approval of the Attorney General and the Federal Trade Commission.

Section (h) permits the participation of the Attorney General and the Federal Trade Commission in the formulation of the voluntary agreements. This is a significant improvement over their merely reviewing the agreements after they have been formulated. It also gives the two agencies additional procedural powers in executing their responsibilities under this section in order to insure their ability to act quickly and effectively.

The U.S. Department of Justice as well as the bureau of competition of the Federal Trade Commission support these amendments to provide competitive safeguards along the lines of the Senate-passed bill that are now absent in H.R. 11882. This is what we do here. What we do, very simply, is, No. 1, insure that the Department of Justice, through its Attorney General and the Federal Trade Commission, have an initial input before any plan which is presented is actually formulated and foisted upon the public so that Department actions afterward would be actually an action against a fait accompli. I believe this is certainly something that we could handily go along with.

If we have to be protective of the interests of the consuming public at this time, then we surely must realize the role of the Federal enforcing agencies, the Department of Justice in its Antitrust Division, and the Federal Trade Commission. I believe that it becomes absolutely necessary that we have them play a role initially in the formulation and development of these plans. We do not do any more than that.

Second, what we do is assure that the Attorney General and the Federal Trade Commission act as a watchdog by insuring that they have an input in the rules and regulations that are being implemented in these plans, again, not impeding, but insuring that there is a protective device to insure that there are no anticompetitive practices in implementation.

Third, what we do is provide that there is some sort of defense, that there is available a defense to any civil or criminal action brought under the antitrust laws, providing certain conditions are met. The conditions are reasonable conditions. I think we are not asking too much. What we would be doing if we placed our stamp of approval on this bill as written would be to provide a broad exemption from all antitrust violations. I think if we were to do that, we would be violating our trust and we would surely be contravening the very purposes of the laws that have been written to insure against anticompetitive practices.

Mr. Chairman, this amendment in essence substantially strengthens the antitrust provision contained in **section 120** of the bill. Present **section 120** contains an unfettered immunity provision for the petroleum industry. The effort at including safeguards in present **section 120** is noble. Unfortunately, given the realities of how the allocation program will work, they are virtually meaningless.

This amendment to **section 120** adopts the framework of the tough Senate antitrust provision and improves upon that based upon additional knowledge and information brought forth since Senate adoption of that provision.

The amendment contains no general immunity from antitrust laws. A limited defense only is created under **section 120(i)**. Additionally, procedural and monitoring mechanisms are adopted to protect the

public interest. The antitrust provisions adopted by both the Senate and the House of the Emergency Petroleum Allocation Act of 1973 are tailored to provide more flexibility and greater safeguards against abuse. And, the **section 120** provisions supersede and apply to that act notwithstanding any inconsistent provisions in **section 6(c)** of that act. Competitive values are made a watchword in **section 101(5)** for guidance in carrying out the act's purposes.

To carry out the act's purposes, certain authority is conferred upon the Administrator in **subsection 120(d)**, subject to approval by FTC. But, authority respecting antitrust and competitive matters and advice is vested exclusively with the Department of Justice and the Federal Trade Commission.

Because of the elaborate mechanism to protect the public interest incorporated in **section 120, subsection (1)** is designed to assure that the section's important safeguards and procedures incorporated as a condition for the granting of a limited antitrust defense and to protect the public interest are not bypassed. Thus, **subsection 708** of the Defense Production Act cannot be invoked with respect to any activity which is authorized to be taken under this act or the Emergency Petroleum Allocation Act of 1973, whether or not such activity is also authorized or implemented under the Defense Production Act.

It is recognized that during the emergency, plans of action, voluntary agreements and the establishment of advisory and interagency committees may be necessary to effectuate the purposes of the act. Although these activities in and of themselves may not necessarily amount to violations of the antitrust laws, they present circumstances which increase the possibility of abuse. Thus, the Administrator may set these activities in motion under **subsection (d)** if necessary to achieve the purposes of the act and the immunity provisions do not attach unless the condition of **(i)** are satisfied. Even then the Attorney General and Federal Trade Commission must approve it. **Subsection (e)** requires participation by the public and other interested persons.

To protect against abuse and to insure compliance with the purposes of fostering competition and preventing anticompetitive effects, advisory committees are made subject to the Federal Advisory Committee Act of 1972 and may not be chaired by a person who is not in the ordinary course a full-time regular employee of the Federal Government. With respect to any advisory committee meeting, the Attorney General and the Federal Trade Commission must have advance notice and may have an official representative attend and participate. Also, a full and complete verbatim transcript of advisory committee meetings must be kept, together with any resulting agreement, which shall be deposited with the Attorney General and the Federal Trade Commission where it shall be made available for public inspection. National security and certain other information may be excised therefrom by the Federal Trade Commission and the Attorney General before making it available to the public. In sum, it is intended that such meetings be held in a fish bowl atmosphere.

Subsection (f) provides a degree of flexibility so that the "fish bowl" atmosphere will not become unnecessarily burdensome. The Federal Trade Commission is authorized to exempt certain meetings from the mandatory transcript requirements of **(c)(3)** and **(c)(4)** when they

are ministerial in nature and are solely for the purpose of carrying out and implementing a plan or agreement which has already been approved. However, the promulgation of regulations are required to assure adequate records in the form of logs or memoranda, so that the monitoring function can be performed. This provision is not intended to limit the more general authority given to the Attorney General and the Federal Trade Commission in **subsection (h)**.

Subsection (o) provides that the purposes of the act in the regulated sector of common carriers will be effectuated with as little loss to competition as possible. To this end the two authorities charged with responsibility for the enforcement of the antitrust laws are required to assess the competitive impact of any actions taken in this sector before exercise of the authority provided in **section 107**. The scope of their participation should be viewed in its broadest sense in keeping with the intent of these provisions. It is expected that, if necessary, the Department of Justice and Federal Trade Commission will propose alternative actions that would effectuate the purposes of this act with as little loss to competitive values as possible.

Subsections (g) and (h) specifically and affirmatively involve both the Attorney General and the Federal Trade Commission as continuing guardians of competition within the framework of this act.

The thrust not only is constant vigilance by the Attorney General and the Federal Trade Commission, but also mandates their active participation and input from the very beginning into any plans of action or voluntary agreements. They are required to propose alternatives to avoid or overcome to the greatest extent practical any anticompetitive effects.

Additionally, at any time the Attorney General or the Federal Trade Commission may amend, modify, or disapprove any plan of action or voluntary agreement.

Similarly, they may review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement that has already been implemented. Revocation will terminate the limited immunity conferred.

In addition to the protection of the public interest in the foregoing manner, specific requirements, procedures, and monitoring are included as conditions to obtaining the limited immunity conferred. **Section 120(b)** defines antitrust laws and **section 120(a)** provides for such limited immunity in accordance with the provisions of **subsection (i)**.

Subsection (i) limits the possible immunity conferred to designated persons engaged in certain aspects of the petroleum business provided the enumerated activity was conducted solely for the purposes of achieving the objectives of this act and the persons are in compliance with the procedural and other safeguards and requirements of this section.

Subsection (i) confers the limited antitrust defense provided:

(1) Such action was

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) Such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

Subsection (k), (m), and (n) are adopted from the present section 120.

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I request the attention of the gentleman from New Jersey, the respected chairman of the Committee on the Judiciary (Mr. Rodino) to ask him just a couple of questions about the language of his amendment. If I understand the amendment—and it necessarily takes a little time for a newspaperman to read seven pages of this amendment and understand the legal implications of it—I would like to ask, since I am not a lawyer, if he would explain the language of (g) (1). It says:

The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements and plans of action authorized under this section.

I used the example earlier of the necessity of one dealer in home heating oil in, say, a rural community where there might be two or three dealers who would have no product available to distribute and would have a customer in the north end of the county on a night that it is going to go down to zero degrees could he call some other dealer and ask him to deliver his product to the first dealer's customer?

In other words, if the Gulf man could call the Exxon man and say, "You take your tank truck and go up and deliver heating oil to my customer up in the north end of the county"—if I understand the language of (g) (1) correctly—and I may not—it says:

The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements . . .

Does that mean that the first call would have to be made either to the Attorney General or to the Federal Trade Commission and they would have to get on a conference line to monitor the discussion between the Gulf dealer and the Exxon dealer to deal with this problem?

Mr. RODINO. I think the gentleman well understands all we are seeking to do with this provision is to insure that there is a minimum of any possible anticompetitive practices that may develop.

Mr. BROWN of Ohio. I assure the gentleman that is my objective too, but that is not really I think responsive to my question. Is it necessary, in view of that language, that the Antitrust Division of the Department of Justice or the Attorney General or somebody from the Federal Trade Commission sit in on that telephone conversation or that personal conversation to get the material delivered?

Mr. RODINO. I do not believe that it is necessary at all and I believe that would not be necessary even if strictly construed.

Mr. BROWN of Ohio. That language is repeated again in (h)(1) where it says:

The Attorney General and the Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anti-competitive practices and effects.

Once again, does that mean the Federal Trade Commission and the Attorney General would have to sit in on this effort to provide service to people who might be in an emergency situation and out of heating oil?

Mr. RODINO. I do not believe that is the intention. I believe the intention is spelled out rather clearly and I am sure the gentleman is aware of the fact that there could be options. As a result it becomes necessary, in order to insure that we do not just provide the opportunity to develop plans, and then after the plans have been developed, to say then to the Attorney General, "We developed these plans and now you take them willy-nilly," to choose the procompetitive alternatives.

Mr. BROWN of Ohio. Let me ask the gentleman about page 6, (i) (1) (B) which says that anyone who participates in these plans:

There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect to actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, or any refined petroleum product that—

And they have to say that:

(1) Such action was—

As a defense against antitrust action—

(B) Undertaken and carried out solely to achieve the purposes of this section, and the rules promulgated hereunder—

We took "solely" out of ours because we understood if this dealer in Podunkville had antitrust action brought against him, he would have to prove, before a court, in a prosecution by the Justice Department that the action he took was solely to carry out this legislation or the thrust of this legislation.

Mr. BROWN of Ohio. Mr. Chairman, it was solely to carry out this legislation or the thrust of this legislation and there was no possibility that they would be anticompetitive in any way. In other words, the individual little dealer would have to prove that against the Justice Department which would be prosecuting him for antitrust procedure. Is that correct?

Mr. RODINO. No. I believe all we do in this section is merely sustain the same kind of requirement as to proof and not a shifting of the burden as the gentleman has in the bill which is presented. I think these are reasonable requests. These are reasonable requirements.

Mr. BROWN of Ohio. The burden of proof under this amendment would then be on the Justice Department to prove that this dealer was in anticompetitive practices?

Mr. RODINO. The burden would not be on the Department.

Mr. BROWN of Ohio. Then the burden of proof would be on this little dealer to prove that the action he took was just to carry out the provision of this act.

Mr. RODINO. The gentleman is talking about the little dealer. We are talking about matters that are of moment. When we talk about antitrust we are talking about not the little single islands or little single incidents that are taking place but we know what we are dealing with.

Mr. BROWN of Ohio. If I may change the example, let us say there is an oil company that wants to get one of its tankers to go to Boston to take care of an emergency in the New England area, instead of stopping at Norfolk, because another company does not have the oil.

Let us make that understanding.

Let us take those two big companies. If they make that understanding, if the Attorney General is there, does he have to sit in?

Mr. RODINO. The Attorney General has to sit in on the development and the formulation of plans.

Mr. BROWN of Ohio. To move a tank from one place to another and the burden of proof is on the company; is that correct?

Mr. RODINO. It is an affirmative defense that the company would have to sustain.

Mr. ADAMS. Mr. Chairman, I rise in support of the amendment of Mr. Rodino. I think the members of the Committee on the Judiciary have done a service to the House in producing this type of amendment. It is certainly far better than what was placed in the bill originally. It goes to the very system used by the Department of Justice and the Antitrust Division to control anticompetitive practices.

We always hear about the little dealer in various places. The little dealer is never the one that has a problem with the Antitrust Division or the Federal Trade Commission, coming in and saying he has improperly delivered a tank of gas to a customer.

It is the situation discussed right at the end of the discussion between the gentleman from Ohio and the gentleman from New Jersey, where the major oil company says it will not supply the whole region and transfers it to one of its other major oil competitors with whom it has a pattern of agreement that we are talking about.

This is the thing we are trying to prevent. The key parts we are trying to correct in the bill are on page 6 of the amendment. They cannot and should not be able to violate the antitrust laws and carry out an agreement and have a defense, unless it is solely because of the energy crisis. If they do this, it should not be an exemption as in the original bill, but should be a defense, because then the parties that are carrying out the program and have the information available are required to carry that affirmative defense. If they are going to set up a plan and are going to implement the agreement, then it is as I said in the well when I was opposing what the gentleman from Ohio suggested, we want the Government and in this case the Antitrust Division saying, "This is what you can do and this is what you cannot do"; not having an industry group go off in a room under an exemption, holding a meeting, putting together an anticompetitive system, then putting their competitors out of business before the Federal Trade Commission or anyone else can even find out it is happening, let alone do anything about it.

Finally, there are provisions here, particularly provision (l) and provision (k) which limit the exemptions that are set forth under other acts and say that if it is for energy then it is only under a limited set of circumstances. This follows what is done in the Senate bill. It does not destroy the antitrust laws and the Federal trade regulations, as the bill provisions would do.

I think the members offering this amendment have done a service to the House in offering this amendment. I am very pleased it has been offered and I shall support it and if it is carried, I will not make a motion to strike **section 120**.

I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I associate myself with the remarks of the gentleman from Washington. I feel the amendment is adequate to protect the interests of the Antitrust Act.

I compliment the gentleman from New Jersey and the distinguished chairman of the committee for offering this very worthwhile amendment.

Mr. YOUNG of Illinois. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Gentlemen, I think we should understand the import of what the proposed amendment offered by the gentleman from New Jersey means to this bill. Essentially what is happening, by the words of this amendment, is that the amendment gives the Federal Trade Commission and the Department of Justice some of the prerogatives, some of the responsibilities, that would ordinarily and should be given to the Energy Administrator.

The Attorney General is an adviser. The Federal Trade Commission, particularly in the field of antitrust laws, is an adviser. This particular amendment gives the Federal Trade Commission and the Attorney General certain administrative powers and duties and responsibilities under this act which the act presently gives to the Energy Administrator.

The Energy Administrator, under the bill as passed out by the committee, has the right, and as a matter of fact has the responsibility to keep the Federal Trade Commission and the Attorney General advised, and gives them an opportunity to be heard at every step of the way, which in effect is also in the provisions of the amendments offered by the gentleman from New Jersey. However, in his amendments he makes them mandatory by statute that they perform certain functions. For example, he provides that any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented. This, despite the fact that in the committee bill and also in the earlier sections of the same amendment they have the right to be heard every step of the way, to be present at all of the hearings, which are all public hearings, where there is a public written record kept and where they have the right to advise the Energy Administrator.

The amendment also goes on to say that the Federal Trade Commission shall monitor the development and implementation of the carrying out of plans of action. **Section 2** say that: The Attorney General and Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

They are not going to be advising the Energy Administrator; they are going to be telling the Energy Administrator; they are going to be telling the Energy Administrator and the public what should be done. Further, there are some other significant changes with respect to this amendment. For example, an important change has to do with the transcript and record, which shall be kept available for public inspection and copying, which is set forth under section 552 of the Administrative Procedure Act.

Under the committee bill, we have provided that the record available for public inspection not apply to certain matters which were set forth in nine different subsections of section 552. The amendment nar-

rows those exceptions down to two particular exceptions, so it makes a significant change there.

Now, the amendment with respect to the provisions which are set forth on page 6, in my opinion, which in effect apply to when the defense of exemption from the antitrust laws is available, is merely declaratory of what the committee bill now provides.

It is not necessary to set this out in detail. I would state that the proposed amendment makes the FTC and the Attorney General's office, in effect, administrators along with the Energy Administrator, and we are giving powers to those two agencies which we have denied the Congress under the bill and the Broyhill amendment. So, I believe that the amendment is not desirable. I believe that we have all of the same safeguards which are necessary in the committee bill.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, many of our friends who bring this bill here have, in the past, taken hasty action, overlooking to some degree the necessity that we must live. That industry must continue; that our economy must remain strong if we are to do the maximum toward protecting our environment. Earlier in the debate I quoted excerpts from the report of our Appropriations Committee on Agriculture, Environmental and Consumer Protection.

Mr. Chairman, it is a shame that the Congress has not always followed that advice given in 1966. Today, we pay the penalty not only in energy shortages but in many other areas.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to inform the House that a decision has been reached that when we arrive at the end of this amendment, the committee will rise until tomorrow morning.

Mr. Chairman, I wish to inform the Members that I will ask at that time for unanimous consent that all Members may revise and extend their remarks in the Record.

Mr. BROYHILL of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is a seven-page amendment, and we have not really had a chance yet to study it. I think the amendment offered by the gentleman from Ohio (Mr. Brown) has been very carefully worked out by not only the Members but in consultation with the staff, as well as judicial experts. Mr. Chairman, I would hope that we could maintain the language that is in the bill.

I would like to ask the gentleman from New Jersey (Mr. Rodino) who is the chairman of the Committee on the Judiciary, if his amendment includes any provision for exemption from State and local antitrust legislation, or would the companies and the dealers, and so forth, who participate in the implementation of plans be subject to local and State antitrust laws, even if they could get a Federal exemption to go ahead and deal with the energy problem.

Mr. RODINO. Mr. Chairman, this does not direct itself to State and local antitrust legislation.

Mr. BROWN of Ohio. So, if the gentleman will yield further, they would not be exempt from State and local antitrust laws? Is that the answer?

Mr. RODINO. Whether or not they would be is not material, I think, to this question.

Mr. BROWN of Ohio. In effect, they would not, because they are not affected by them in any way?

Mr. RODINO. They are not exempt under this, no.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman.

Mr. Chairman, if the gentleman will yield further, I would just like to advise the committee that I have been advised by the administration that while Mr. Clearwater has apparently referred the chairman of the Committee on the Judiciary to a letter from Governor Love—do the Members remember him?—saying that the language of the Senate bill was appropriate, and, therefore, the language which the gentleman from New Jersey has proposed would be appropriate.

That letter was dated November 23, or at least late in November, and we are now into the month of December.

Mr. Clearwater sat down with us and wrote the language which is in our amendment. He is apparently somewhat embarrassed by the fact that he has offered his approval to both amendments, both the gentleman's amendment and my language.

However, I am advised that the administration and the Office of Management and Budget have also sat in on the drafting of language in the bill as it now stands, and the White House and the Antitrust Division of the Department of Justice all find our language perfectly acceptable, and they agree that it will accomplish the thrust of what we are trying to accomplish here.

Mr. RODINO. Mr. Chairman, I would like to state that Mr. Clearwater's position was stated to us only today, and he recognizes the fact that there was a need for this limiting exemption.

I think when we consider that we have both the Federal Trade Commission and the Department of Justice agreeing that this measure is, indeed, necessary in the interests of competitive safeguards then I cannot see how the gentleman can dispute the fact that we have a very good amendment here, one which provides a limited exemption and yet protects the consumer at a time when he needs protection most.

Mr. BROWN of Ohio. Mr. Chairman, I will say to the gentleman that Mr. Clearwater and I were on the phone. I guess we might as well say it was largely a one-way conversation.

But when I offered him the opportunity to respond, he advised me that he did, in fact, sit in on the discussions and helped create the agreement that was reached among the Antitrust Division of the Department of Justice, the Office of Management and Budget, the industry, the staff of the counsel of the committee, the gentleman from California (Mr. Moss), and myself, just 6 nights ago.

He told me just a few moments ago, in fact, that he found the language perfectly acceptable and also told you your language fell within the purview of the letter or the framework of the letter Mr. Love wrote apparently to the House on November 23.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word. I will try not to take 5 minutes.

Mr. Chairman, I spent a good deal of my life advising corporate officials how to live with the antitrust laws. I have pulled my clients out of advisory committee meetings because the particular Government

official presiding did not lay down the very kind of careful procedures that this amendment requires.

One of the things about the antitrust laws, as business lawyers know, is to save businessmen from themselves, because if there is one thing separating us from a serious drive toward socialism in this country, it is the antitrust laws.

The one big thing we have to justify our system—and I believe in our system—is the fact that it does work in the public's interest, so long as it remains a competitive system. The thing that keeps it working as a competitive system is the antitrust laws.

If the gentlemen from the oil industry want to end up being nationalized, all they have to do is just proceed in the way that the committee's **section 120** sets it up. I guarantee you will see the darndest drive to nationalize the oil industry you have ever seen.

The amendment before us is very carefully drawn. Someone a little earlier in the debate said that the antitrust laws are simple. After many years of practice in this field I will say that if there is one thing they are not, it is simple. You can see why that is so when you consider that they apply to just about every facet of the economy of the United States.

Mr. McCLORY. As I understand the amendment offered by the gentleman from New Jersey, it is intended to exempt from the antitrust laws those arrangements and voluntary agreements which the producers or the refiners enter into pursuant to the direction of the Administrator and which are approved by the Attorney General and the Federal Trade Commission. Is that correct?

Mr. SEIBERLING. That is my understanding.

Mr. McCLORY. And that is all. So if they do engage in any anticompetitive practices in violation of those antitrust laws, then, except as allowed under this amendment, they are subject to the antitrust laws just as they are at the present time.

Mr. SEIBERLING. Yes. Let me say further there is nothing in this amendment preventing any group of businessmen, whether small or large, from making an exchange agreement to meet emergency shortages or anything else if it is lawful under the antitrust laws. But if they want to get together and make a comprehensive plan for allocation of oil, they had better follow the procedure we propose in this amendment.

Mr. HECHLER of West Virginia. I think we ought to also consider the attitude of the man who is in line to administer this law, Mr. William E. Simon, how he feels toward the antitrust laws. On the 17th of July the Federal Trade Commission filed an antitrust complaint against eight major oil companies. Mr. Simon, as Deputy Secretary of the Treasury and head of the Oil Policy Committee, tried to get the Federal Trade Commission to back down on it. It seems to me we have here a perfect example of where we have to strengthen the language in order to protect the antitrust laws. Mr. Simon even went so far as to warn that the FTC antitrust case against the eight major oil companies might worsen the energy crisis.

On the front of the Archives Building is written "What is past is prologue," which means "you ain't seen nothing yet." With an administrator like Mr. Simon, it is essential this amendment be adopted

in order to make sure the antitrust laws are protected and the power of the Federal Trade Commission is protected.

Mr. DINGELL. I would simply note a recent study by the Federal Trade Commission found all manner of anticompetitive actions going on in the oil industry. Guess who it was who rushed downtown to denounce it. Nobody but the Department of the Treasury of which Mr. Simon was a top-ranking official.

They said the oil industry is one of the most competitive in the country, and does not need any additional supervision since it engages in no anticompetitive actions.

Mr. SEIBERLING. It was not just the Treasury that said it, it was Mr. Simon himself.

If you really want to keep the fox from taking charge of the chicken coop you need this amendment, and you need it to protect the oil industry from itself as well as the country from the oil industry.

Mr. MEZVINSKY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to say that I strongly support the amendment which has been offered on behalf of the gentleman from New Jersey (Mr. Rodino). I think it strengthens the antitrust provisions but, as important, what it does do is to give the public access. I think it will help the public to find out better what is happening. I think it provides a monitoring plan whereby we can understand what is going on. But, above all, it really places the burden upon the oil companies to show good faith. I think the oil companies are going to win no matter what happens with this legislation, but I think this does provide the public with access, and that it is in the public interest.

For that reason, Mr. Chairman, I support the amendment offered by the gentleman from West Virginia (Mr. Staggers) on behalf of the gentleman from New Jersey (Mr. Rodino).

Mr. BROWN of Ohio. Mr. Chairman, has the gentleman looked at the amendment and at the language in the bill to see that there is a requirement of public notice for planning meetings in the bill at present; that the public is supposed to participate under the language of the bill at present, and that there is also participation by the Department of Justice and the Federal Trade Commission?

I trust that the gentleman from Iowa is not suggesting that the language now in the bill does not provide for public notice either prior to a meeting or after the meeting on what the plan is.

Mr. MEZVINSKY. Mr. Chairman, I will state to the gentleman from Ohio that I am aware of that. I might also point out that the Federal Trade Commission made it very clear when they presented their arguments against the language in the bill, as reported, that access was of vital interest to the Federal Trade Commission, the Justice Department, as well as the public. Their participation will be enhanced by the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. Staggers) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken, and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

Mr. HAYS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 286, noes 112, answered “present” 1, not voting 33, as follows:

[Roll No. 659]

AYES—286

Abzug	Collins, Ill.	Gialmo
Adams	Conte	Gibbons
Addabbo	Conyers	Gilman
Alexander	Corman	Ginn
Anderson,	Cotter	Gonzalez
Calif.	Coughlin	Grasso
Anderson, Ill.	Culver	Gray
Andrews, N.C.	Daniel, Dan	Green, Oreg.
Andrews,	Daniels,	Green, Pa.
N. Dak.	Dominick V.	Griffiths
Annunzio	Danielson	Gross
Arends	Davis, Ga.	Grover
Ashley	Davis, S.C.	Gude
Aspin	de la Garza	Gunter
Badillo	Delaney	Guyer
Bafalis	Dellenback	Haley
Barrett	Dellums	Hamilton
Bennett	Denholm	Hanley
Bergland	Dennis	Hanna
Bevill	Dent	Hanrahan
Biaggi	Derwinski	Hansen, Wash.
Biester	Diggs	Harrington
Bingham	Dingell	Hawkins
Blackburn	Donohue	Hays
Boggs	Downing	Hechler, W. Va.
Boland	Drinan	Heckler, Mass.
Bowen	Dulski	Heinz
Brademas	du Pont	Helstoski
Brasco	Eckhardt	Henderson
Bray	Edwards, Ala.	Hicks
Breckinridge	Edwards, Calif.	Hogan
Brinkley	Eilberg	Holifield
Brooks	Eshleman	Holtzman
Broomfield	Evans, Colo.	Horton
Brotzman	Evins, Tenn.	Howard
Brown, Calif.	Fascell	Huber
Burke, Fla.	Findley	Hungate
Burke, Mass.	Fish	Hutchinson
Burlison, Mo.	Flood	Ichord
Burton	Flowers	Johnson, Colo.
Butler	Flynt	Jones, Ala.
Byron	Foley	Jones, N.C.
Carney, Ohio	Ford,	Jones, Okla.
Casey, Tex.	William D.	Jones, Tenn.
Chappell	Forsythe	Jordan
Chisholm	Fountain	Karth
Clark	Fraser	Kastenmeier
Clausen,	Frenzel	Kazen
Don H.	Froehlich	Kluczynski
Clawson, Del	Fulton	Koch
Clay	Fuqua	Kyros
Cleveland	Gaydos	Landrum
Cohen	Gettys	Latta

Leggett	Perkins	Stark
Lehman	Pettis	Steed
Litton	Pickle	Steele
Long, Md.	Pike	Steelman
McClory	Podell	Steiger, Wis.
McCloskey	Preyer	Stephens
McCormack	Price, Ill.	Stratton
McDade	Pritchard	Stubblefield
McFall	Quie	Stuckey
McKay	Randall	Studds
McKinney	Rangel	Sullivan
Macdonald	Rees	Taylor, N.C.
Madden	Reid	Thompson, N.J.
Madigan	Reuss	Thomson, Wis.
Mallary	Riegle	Thone
Mann	Rinaldo	Thornton
Maraziti	Rodino	Tiernan
Matsunaga	Roe	Udall
Mayne	Rogers	Van Deerlin
Mazzoli	Roncalio, Wyo.	Vanik
Meeds	Roncallo, N.Y.	Vigorito
Melcher	Rooney, Pa.	Waldie
Metcalf	Rose	Wampler
Mezvinsky	Rosenthal	Whalen
Miller	Rostenkowski	White
Minish	Roush	Whitehurst
Mink	Roy	Whitten
Mitchell, N.Y.	Roybal	Widnall
Moakley	Ryan	Wiggins
Mollohan	St Germain	Wilson,
Moorhead, Pa.	Sarasin	Charles H., Calif.
Morgan	Sarbanes	Wilson, Charles, Tex.
Mosher	Satterfield	Winn
Murphy, Ill.	Scherle	Wolff
Murphy, N.Y.	Schroeder	Wright
Natcher	Seiberling	Wydler
Nedzi	Shipley	Wyman
Nichols	Shriver	Yates
Nix	Sisk	Yatron
Obey	Skubitz	Young, Ga.
O'Hara	Slack	Zablocki
Owens	Smith, Iowa	Zion
Patman	Smith, N.Y.	Zwach
Patten	Staggers	
Pepper	Stanton, James V.	

NOES—112

Archer	Cochran	Harsha
Armstrong	Collins, Tex.	Harvey
Ashbrook	Conable	Hastings
Baker	Conlan	Hinshaw
Bauman	Crane	Holt
Bell	Daniel, Robert W., Jr.	Hudnut
Breaux	Davis, Wis.	Jarman
Brown, Mich.	Devine	Keating
Brown, Ohio	Dickinson	Kemp
Broyhill, N.C.	Dorn	Ketchum
Broyhill, Va.	Duncan	King
Buchanan	Esch	Kuykendall
Burgener	Frelinghuysen	Landgrebe
Burleson, Tex.	Frey	Lent
Camp	Goldwater	Lott
Carter	Goodling	Lujan
Cederberg	Hammerschmidt	McCollister
Clancy	Hansen, Idaho	McEwen

McSpadden	Quillen	Symms
Mahon	Rarick	Talcott
Mailliard	Regula	Teague, Calif.
Martin, Nebr.	Rhodes	Teague, Tex.
Martin, N.C.	Roberts	Towell, Nev.
Mathias, Calif.	Robinson, Va.	Treen
Mathis, Ga.	Robison, N.Y.	Vander Jagt
Milford	Rousselot	Veysey
Mizell	Runnels	Waggonner
Montgomery	Ruppe	Ware
Moorhead, Calif.	Ruth	Williams
Moss	Sandman	Wilson, Bob
Myers	Schneebeli	Wylie
Nelsen	Sebelius	Young, Alaska
O'Brien	Shoup	Young, Fla.
Parris	Shuster	Young, Ill.
Passman	Snyder	Young, S.C.
Poage	Spence	Young, Tex.
Powell, Ohio	Stanton, J. William	
Price, Tex.	Steiger, Ariz.	

PRESENT—1

Beard

NOT VOTING—33

Abdnor	Hébert	O'Neill
Blatnik	Hillis	Peyser
Bolling	Hosmer	Railsback
Burke, Calif.	Hunt	Rooney, N.Y.
Carey, N.Y.	Johnson, Calif.	Sikes
Chamberlain	Johnson, Pa.	Stokes
Collier	Long, La.	Symington
Cronin	Michel	Taylor, Mo.
Erlenborn	Mills, Ark.	Ullman
Fisher	Minshall, Ohio	Walsh
Gubser	Mitchell, Md.	Wyatt

So the amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 120.]**

The result of the vote was announced as above recorded.

Mr. STAGGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes, had come to no resolution thereon.

Mr. RAILSBACK. Mr. Speaker, our country is now nearly 20 percent short of its current energy needs. While voluntary efforts have been extremely helpful, it is clear that the United States will be plagued by serious shortages for years to come. Only by passage of such legis-

lation as H.R. 11450 can we hope to alleviate some of the most adverse effects of present shortages.

Briefly stated, the National Emergency Energy Act responds to many of the requests presented in the President's energy messages. It authorizes him to establish priorities among petroleum users. H.R. 11450 sets up a Federal Energy Administration. The bill provides for coal conversion. It restricts windfall profits, allows importation of liquified natural gas, reviews export and foreign investment policies, and, on a case-by-case basis, the Environmental Protection Agency may suspend air pollution standards. In addition, the legislation calls for a fuel economy study, an EPA report, and a September 1 report by the President on the implementation of the act. In sum, the National Emergency Energy Act is one of the most comprehensive and most important bills designed to combat the energy crisis, and I urge its immediate passage.

I might note that I was particularly encouraged by the fact that there are research provisions in this legislation. It is my hope that attention will be given to future alternatives to present energy sources. For example, I am particularly interested in full consideration of solar and fusion energy. In this respect, I have detailed to my constituents what steps we must take for a comprehensive energy program. These steps are as follows:

WHAT EACH OF US CAN DO

1. Urge your elected officials to work for a program that should include the following as priorities:

- Development of fusion energy
- Development of breeder reactors
- Development of fuel capacities (synthetic)
- Development of new oil fields—both on shore and offshore;

Such efforts should lead to domestic independence in this important area.

2. Encourage the establishment of a national energy center which would be charged with the responsibilities of researching energy procurement and deployment (including research on electrical needs in the future);

3. Encourage the creation of a center which would examine the economic, environmental, social, military, and political consequences of any decisions in the field of energy;

4. Support the development of talks between countries of the world. Such talks could provide the forum for exchanging what knowledge is thus far available on the subject of energy. Legislation to authorize the President to set up a conference to accomplish this goal has been introduced in the House of Representatives, and is before the Foreign Affairs Committee for action. I intend to speak and vote for such legislation.

Mr. RAILSBACK. Mr. Speaker, early in the 92d Congress many of us—particularly those from the Midwest—warned of an energy crisis. It is clear that crisis is now upon us, and we must act now before the energy crisis leads to other crises—none the least of which is an economy crisis.

Mr. MARTIN of North Carolina. Mr. Speaker, I submit for the information of the House of Representatives an amendment which I expect to offer to H.R. 11882, the Energy Emergency Act, while that bill is under consideration by the House. The purpose of this amendment is to provide that in the event the President or Federal Energy Administrator finds it necessary to propose end-use allocation—or rationing—of gasoline, that proposed system will be equitable and will not provide a framework conducive to blackmarket profiteering.

It provides that in addition to a basic nondiscriminatory allocation—ration—for personal automobiles or recreational vehicles, consumers will have an option to purchase extra ration stamps or otherwise qualify for an extra share by paying higher net price.

An elaboration of my views and arguments are contained in remarks made from the well of the House during general debate today.

The text of my proposed amendment follows: Amendment to H.R. 11882, as reported, by Mr. Martin of North Carolina.

On page 6, line 6, strike the period, and add: “: *Provided, however,* that any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic nondiscriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel upon payment of a fee or user charge on a per unit basis to the Federal Energy Administration.”

HOUSE DEBATE ON H.R. 11450, DECEMBER 13, 1973

ENERGY EMERGENCY ACT

Mr. STAGGERS. Mr. Speaker. I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11450, with Mr. Bolling in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, there was pending the amendment in the nature of a substitute consisting of the text of the bill H.R. 11882, offered by the gentleman from West Virginia (Mr. Staggers).

AMENDMENT OFFERED BY MR. CARTER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. CARTER. Mr. Chairman, I offered an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Carter to the amendment in the nature of a substitute offered by Mr. Staggers: On page 32, line 17, after the word "oil", strike out the words "and coal."

On page 32, line 23, after the word "oil," strike out the words "or coal."

On page 33, line 21, after the word "oil," strike out the words "or coal."

On page 35, line 17, after the word "oil," strike out the words "or coal."

Mr. CARTER. Mr. Chairman, my amendment has been read, and as the Members know, under **section 117** of this bill, a "windfall profit" is defined as one in excess of the average profit received by all sellers of petroleum products and coal between the years 1967 and 1971.

I want to point out that during these years our coal companies made profits in only one of these years, and that was 1970. The Coal Mine Health and Safety Act of 1969 was a major piece of legislation, which substantially updated and strengthened previous inspection acts, and it required extensive and expensive equipment purchases.

It is clear that much of the profit of the coal industry has been used for such expenditures.

I submit, Mr. Chairman, that if the proposed base is the one to be used to determine excess profits, these companies would be forced to pay millions and millions of dollars back to the purchasers. Not only would this absolutely break every coal company in this country, but it would create an impossible complication of an already difficult situation.

I owe no fealty to the coal operators, but I do owe a tremendous debt to the coal miners of the area which I represent.

Mr. Chairman, I urge my colleagues to realize the responsibility of such an action, and I urge the adoption of my amendment.

Mr. DUNCAN. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Kentucky, I strongly support his amendment.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am trying to understand the amendment which is before us.

The gentleman from Kentucky (Mr. Carter) as I understand it, has offered an amendment to strike the words, "or coal," in most of those places where they appear in **Section 117**, the windfall profits section.

My question to the chairman of the committee or to the Chairman is as follows:

Is the amendment pending offered as a substitute, or is it a direct amendment to that particular section?

The CHAIRMAN. The Chair will inform the gentleman that the amendment offered by the gentleman from Kentucky (Mr. Carter) is an amendment offered to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

Mr. PICKLE. Could this Member be advised as to what was the amendment in the nature of a substitute that the gentleman from West Virginia offered?

The CHAIRMAN. The Chair will advise the gentleman that the amendment pending is the text of the bill H.R. 11882.

Mr. PICKLE. Then, in effect, Mr. Chairman, the amendment is an amendment to the bill pending?

The CHAIRMAN. The amendment is, as the Chair stated, an amendment to the amendment in the nature of a substitute which is the text of the bill H.R. 11882.

Mr. PICKLE. I thank the Chairman.

Mr. ECKHARDT. Mr. Chairman, I rise to speak against the amendment.

Mr. Chairman, the windfall profits section of the bill simply provides that if, because of the energy shortage, any company derives windfall profits from the prices permitted, that there may be some way for the public to recoup those profits. The means is by paying back to those who have been overcharged by prices which have resulted in windfall profits or, if they may not be identified, as in the case of the general public purchasing gasoline or other petroleum products, in that event, by recouping excess payments by lower prices over a given period of time.

The windfall profits section provides that profits may be that of the individual company's 5-year profit average from 1967 through 1971 or the industry's average from 1967 through 1971.

What this means is that if the industry can show its average profits do not exceed either of these averages then such are not to be considered windfall profits. There is certainly no reason to treat coal any differently than other industries. If there is a windfall profit as a result of this energy shortage, then, if we include that windfall profit section, we should apply it to every company that is making a windfall profit.

So therefore I suggest to the Members that it is entirely inappropriate to exempt windfall profits in this section.

Mr. DENT. It is interesting to note that during the 5-year period that we are using as a base period here the coal industry only earned a profit in 1 year, and that was last year. They have not earned a profit before that. The condition of the coal industry is probably the worst of any of the energy-source industries in the United States.

Now we need more incentive for opening mines. You just do not turn a valve in order to open up a coal mine. It is a great big expensive operation. This is not a product which is in short supply.

Mr. ECKHARDT. If the gentleman will yield back to me. I understand that, but if that be the case, the chances are the coal industry will not be making a windfall profit and will not come under this section, anyway. If the gentleman is correct and if the period involved is unfavorable to the coal industry, the way to correct that is to use another period with respect to the coal industry but not to treat it as being completely exempt from windfall profits.

I yield back the balance of my time.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. DENT. Mr. Chairman, this is a very serious matter. We have been working since 1964 under an authorization from this Congress to the Department of the Interior for the gasification of coal, and the production of oil from coal. We have now had breakthroughs that give us promise. The Navy has just reported that they have a cruiser at the present time that is using oil that was derived from coal. It is now possible within 2 years, using an expenditure of between \$2 billion and \$3 billion, to provide all of the energy times 300 percent that is now imported into the United States from oil producing countries. We have a supply of coal of 900 million tons a year, which is 50 percent greater than we have ever used in our lifetime for 1 year, available for 1,000 years with the known seams of coal.

We know how coal is formed, and so below these seams of coal we now know that there are other seams of coal. We have records of them, but we do not have geological surveys of any kind to show how extensive these seams are, but we must now arrange to help that industry which has been at a standstill almost since 1926, and whose workers have the worst kind of local poverty in every area of our coal mines. For goodness' sake, we have got to get them back on their feet so that they can recoup some of the moneys and get back to producing. There is no allocation of coal, it is an American product. No one can stop us but ourselves. If we do not help the coal industry now to move ahead and open the mines and get back into the production of coal, then the tragedy we are going through today may become a fatal tragedy to all of us. Do not take coal and put it into the same category as oil,

that is a different type and a different breed of animal. Once you get the oil out you just turn a valve. Once you close down a mine it deteriorates. Because of mine closures we have lost coal, and it is now not available to us because we closed those mines.

In 1961 I warned the Congress of the United States of what would happen if we did not keep our coal mines in a ready-to-go condition. We need all of the help for our energy needs we can get, and coal can meet those energy needs. Let us put them in a condition where they can produce, and not in a condition where they cannot produce. Let them stretch their muscles. All we need today is more muscle and money, and we will be able to give this country the energy it needs through the coal industry.

Mr. CARTER. Mr. Chairman, I just want to say that this bill as presently written would do irreparable harm not only to the mining industry but will cut off our coal miners from work. In the four years from 1967 to 1971, to take an average of that, of the amount received in the industry on that, and call that a windfall profit when in only one of those years, in 1970, was there a profitable year. I am not arguing about big industry tycoons, or anything like that, I am arguing for the coal miners so they can work, and to help the miners in my area. I am not arguing against petroleum.

Mr. Moss. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find this is a rather strange argument. The section proposed to be stricken, or at least in which coal was a commodity to be stricken, deals with windfall profits. It does not deal with earnings that are reinvested either in developing a coal mine or devoted to research. It does not deal with the items that under almost any normal accounting procedure, are other than windfall or unusual profits, profits going beyond the normal range of profits for the industry.

I can understand a move to prevent us from blocking normal profits, but the extraordinary, the windfall that arises solely because of a market that at the moment lacks product to meet demand, that I cannot understand.

Mr. CARTER. Let us read what this says:

Except as provided in paragraph (4), for the purposes of this subsection, the term "windfall profits" means profit in excess of the average profit obtained—

The fact of the matter is during those 4 years at only one time did the coal industry make a profit, and all of the things that the gentleman is stating are not in this bill, but only what I have said right here. I want to tell the Members if this continues, it is going to throw thousands out of work.

Mr. Moss. Mr. Chairman, I will not yield further, because I am going to make an observation. We are not talking about windfall losses. There is a rule of reason that has been followed in the matter of negotiating over the past on behalf of the Government in determining what constitutes a windfall profit, and it does not deny a proper rate at all. That is not anticipated, and this record should make it very clear that an adequate rate of return is not foreclosed by the language dealing with windfall profits.

Mr. DENT. If I understood the gentleman to say what I think he said, he said that this would not interfere with any exploratory work that has to be done, or extension of facilities, or moneys spent on opening new mines. But what does it say? On page 36, line 16, subparagraph (7) it says:

Except as provided in paragraph (4), for the purposes of this subsection, the term "windfall profits" means profit in excess of the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971.

That is what it says.

Mr. Moss. The gentleman is addressing himself to the very same point that the gentleman from Kentucky addressed his remarks to, and I say to my good friend, the gentleman from Pennsylvania, that he is in just as much error as was the gentleman from Kentucky.

Exploratory or developmental items are tax-deductible; they are expenses of doing business and not part of profit; and anyone who tries to torture into the language any intent other than the one I have set forth, either does not read with care or is acting from emotion rather than fact.

Mr. PRICE of Texas. I would like to agree with the gentleman's statement. Is it not true that the coal companies having this experience have been able to show their losses under the tax laws of today and, therefore, could show a loss over these past 5 years the same as any other industry?

Mr. Moss. As a matter of fact, they could do some carrying forward.

Mr. HEINZ. Mr. Chairman, I rise to ask the gentleman from California one question regarding page 36, line 18, where it says:

... profit in excess of the average profit obtained by all sellers ...

Does the gentleman construe that to mean that a calculation will be made excluding the losses of any coal operation, and that only profitable operations will be taken into consideration when this "average profit obtained by all sellers" is calculated?

Mr. Moss. I would mean we would have to weigh any calculation to reflect a rational approach to determine a profit average, and that would also under the precedents of the practice of the Renegotiation Board have to reflect a reasonable rate of return. I believe that such a rate of return has often been determined in prior instances so that there are guidelines.

Mr. WAGGONER. Mr. Chairman, I offer a substitute amendment for the amendment offered by the gentleman from Kentucky (Mr. Carter).

The CHAIRMAN. That is not in order. The Chair will have to state to the gentleman that a substitute is not in order.

Mr. WAGGONER. Mr. Chairman. I offer an amendment to the amendment.

The CHAIRMAN. The Chair will have to state that no amendment to the amendment is in order. It would be in the third degree. The Committee is considering the bill H.R. 11450, to which there has been offered an amendment in the nature of a substitute, that being the text of the bill H.R. 11882. An amendment to that offered by the gentleman from Kentucky (Mr. Carter) is now pending. Further amendment to that amendment would be in the third degree and contrary to the rules of the House.

PARLIAMENTARY INQUIRIES

Mr. WAGGONNER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WAGGONNER. After the House has worked its will on the amendment offered by the gentleman from Kentucky, will not a further amendment to that section be in order?

The CHAIRMAN. There is not a completely simple answer to that question. It depends on the disposition of the amendment offered by the gentleman from Kentucky (Mr. Carter). If it were defeated, any other germane amendment to the section would be in order. If it were adopted then other amendments might be in order if they were drafted in a certain way to that section.

Mr. KETCHUM. Mr. Chairman, a parliamentary inquiry. Yesterday I brought up the same subject with the Parliamentarian and he informed me that an amendment to an amendment was not in order but that a substitute amendment for the amendment was in order. I wonder if we might have a ruling on that.

The CHAIRMAN. The misunderstanding might have come from the fact that a substitute for the amendment in the nature of a substitute would be in order. A substitute for the whole amendment in the nature of a substitute, in other words the whole text of the bill H.R. 11882 would be in order. But there is no way to amend an amendment pending to that substitute.

Mr. KETCHUM. Mr. Chairman, if I may proceed a moment further, does that indicate that if the amendment offered by the gentleman from Kentucky is adopted, that no further amendment can be made to that section?

The CHAIRMAN. What the situation is—and the Chair has tried to state this situation clearly a time or two before—if an amendment to a section is adopted, then that constitutes final action on that particular piece of that section and that particular amendment cannot be further amended. But if then there is an amendment offered to another part of that section, that amendment might, well be in order. But the basic point is that the committee cannot amend something that has just been adopted. In other words, if there is an amendment to a section which affects the language of a portion of that section, if that is adopted then that concludes the matter with regard to the language changed in that portion of that section; but if there are other portions of that section which are not affected by that amendment then they are still open to amendment. A further amendment broader in scope than that adopted would still be in order.

Mr. KETCHUM. I thank the Chair for that.

Mr. WAGGONNER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WAGGONNER. Do I interpret the rule of the Chair to be that should this amendment to **section 117** be adopted, a substitute for the entire section which remains would be in order?

The CHAIRMAN. A substitute for the entire section which remains would be in order.

Mr. HANNA. Mr. Chairman, I move to strike the necessary number of words.

Mr. STAGGERS. Mr. Chairman, I wanted to make a statement, if the gentleman would allow me to.

I rise in support of the amendment of the gentleman from Kentucky, knowing the coal situation in the State of West Virginia. I know it has been in a bad state of affairs. This would be helpful to the future energy policy of America. I think it is only fair that an industry that has been damaged as much as it has should not be penalized more.

Mr. HANNA. Mr. Chairman, I take the well at this point in time to help those who feel, as I do, somewhat abused in this whole process. We had 55 amendments before us at the beginning of this session. There is a marvelous and rather mysterious institution in the Congress called the conference, which in my few years in the House has more often than not been the body which writes most of the important legislation.

Now, I have not always been happy about that; but considering the facts that I explained yesterday, how we are going so blindly into a matter that is so complex and about which there is so little real knowledge, I am prepared to see the conference committee write whatever bill we are going to have before us. I am not going to vote either for or against this bill when it is finished in this House, because I want to leave myself free to vote for the real bill which will be the one that comes out of the conference report.

Now, in approaching these amendments, which I hope will be diluted in number, I think the controlling criteria should be, does it or does it not strengthen the hand of the House conferees, for as I look at the conference I see there is a very powerful personage who will be representing the other body, who would like nothing better than to write the whole thing himself.

I question the wisdom of that, but since I, like all the Members, are going to have to go before the people to explain what I have done in this important field, I would prefer to lessen my own responsibility, because I am rather humble about my own knowledge in this whole field.

Now, I am as afflicted as anybody here with the disease of this profession. I constantly go into a rhapsody on the rolling resonance of my own rhetoric. I am constantly impressed with the laser-like sharpness of my own logic; but I think that in this condition and seeing the country as I do, humility is not a bad thing, because I assure the Members, there are plenty of my constituents back home ready to explain to me how much I have to be humble about. Perhaps some others might have this same feeling. If Members will just take a little pains and a little time and apply, as I have, the modicum of intelligence, which however taxed, I have tried to approach both the Senate bill and the House bill, these are the provisions we have to be concerned about.

The questions we must all be asking ourselves while we consider this bill and its future in conference are: What does the House bill have in regard to certain problems of concern? What does the Senate bill have? What are we likely to get out of conference?

The areas of concern are:

First, rationing and conservation plans. Under the House bill, the Emergency Petroleum Allocation Act is amended to require ordering of priorities with vital services getting top priority. Also, it authorizes gas rationing. Within 30 days after enactment, the President is to submit one or more energy conservation plans to Congress "for appropriate action." Under the Senate bill, energy contingency plans must be promulgated within 15 days, which shall include: first, priority system and plan, and rationing program; second, measures capable of reducing energy consumption by 10 percent within 10 days and 25 percent within 4 weeks; third geographic distribution plan, fourth, and requirements for programs to be developed by State and local governments to which they must respond within 8 weeks. This is subject to legislative veto within 15 days of submission to Congress. In addition, the President is required to develop and implement federally sponsored incentives for use of public transit, including military operating subsidies. What will the conference committee report?

Second, the relation of this legislation to the environment. Both bills allow stationary source exemptions before May 15, 1974, if fuels become unavailable. The Senate bill says these exemptions cannot run beyond November 1, 1974. The House bill authorizes additional exemptions up to June 30, 1979, if fuels are unavailable, the exemption will not contribute to higher-than-standard pollution, and the person getting the exemption has been put on a schedule for compliance with air quality standards before June 30, 1979. The Senate bill makes no reference to auto emissions; the House bill extends the deadline. The House bill exempts for 1 year all actions under the act from NEPA. The Senate bill has similar exemptions for all action to occur within less than 1 year—but it requires sort of a mini-impact—environmental evaluation—statement within 60 days of any action taken.

Third, the antitrust provisions. Both bills allow voluntary marketing agreements under government regulation. In the House bill, these agreements are between companies; in the Senate bill, they are between private enterprise and government. Both bills exempt meetings to implement purposes of the Act from antitrust laws, as long as such meetings are carried out under government supervision. Both bills allow the FTC or Attorney General to modify or disapprove any voluntary plans. Under the House bill, such plans must be submitted to the FTC and Attorney General 10 days before implementation. Under the Senate bill, the Attorney General and FTC are involved in the development of the plan. What will we get out of conference?

Fourth, the international aspects of this legislation. Under the Senate bill, exports can be limited under the Export Administration Act, which is amended for purposes of this bill, to exclude the requirement of abnormal foreign demand. In the House bill, the Administrator of the FEA may restrict exports "as he deems appropriate." He may use existing statutory authority, but he does not have to. He must take into account historical trading relations with Canada and Mexico. The Senate bill requires the President as part of his allocation and contingency planning to develop plans with other countries to meet worldwide shortages. There is no comparable provision in the House bill. Which provisions will the conference committee go with?

Fifth, the assistance that this bill gives to those harshly affected by this legislation. The Senate bill provides for direct FHA and SBA

loans to improve insulation and heating equipment. In addition, tax deductions are provided for energy conserving alterations of taxpayers' residences. There are no such provisions in the House bill. The Senate bill authorizes unemployment assistance to those thrown out of work by energy conservation measures who would not otherwise qualify for compensation. The House bill simply requires a report on the problem. What are we likely to get out of conference?

Sixth, administration of the bill. The House bill establishes the Federal Energy Administration. The Senate bill does not contemplate it. What will the conference committee do?

Seventh, excess profits. The House bill requires that prices to be set to eliminate excess profits. There is no such provision in the Senate bill. What are we likely to get out of this conflict, keeping in mind that we have a pretty strong Senator heading the conferees of the other body?

I am particularly disappointed that neither bill deals with the supply problem by encouraging increased production in any comprehensive way, other than by calling for reports by various agencies.

I am informed that 35 of the 55 amendments we will be considering were offered and rejected in committee. This suggests that their life in conference is seriously in jeopardy if passed, and completely dead if rejected. Therefore, I hope that the Members will realize that a lot of the time they are going to spend on these amendments will not be fruitfully invested, and will seriously weaken the bargaining power of our Representatives to the conference in dealing with other basic differences between the House and Senate bills. In view of complexity and seriousness of the problem which this legislation attempts to deal with, we should send our conferees into conference in the strongest possible position.

Mr. PRICE of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kentucky. It is difficult for me to stand here and listen to this body put a restriction on what they call windfall profits of oil companies and coal companies. Are we ever going to let free enterprise in this country do anything, or are we going to continue to legislate?

Who is going to determine the windfall profits of these companies? What about the management of one company versus another company? What if one company, because of the free enterprise system, explores and invests millions of dollars of its own money and investors' money to discover a new oil field or a new gas field or a new coal field. Then we are going to, under this legislation, use the last 5-year-profit average of all of the companies? To me, that does not make sense.

That is not free enterprise, and we are not going to solve the energy crisis by putting restrictions upon the peoples' initiative in the companies of America, regardless of whether they are a coal company or an oil company. This will set a precedent in my estimation, to have controls on excessive profits upon any company in this country. Therefore, Mr. Chairman, I feel that this entire section should be stricken from the bill.

Mr. McCLORY. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kentucky.

Mr. Chairman, Illinois has vast reserves of coal which can help supply the much needed energy of this Nation. These coal reserves are of particular importance to American industry. Coal is readily available. It is to be found in Illinois in generous supply, and can satisfy the needs of industry and commerce, as well as many of the residential requirements of our Nation.

However, Mr. Chairman, the American way is to increase production consistent with the profit motive. In other words, if we are going to encourage a greatly expanded mining of coal, we must make it attractive and, indeed, profitable to the mine operators, as well as to the many miners who will be employed in satisfying this great and almost unlimited source of additional energy.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Kentucky (Mr. Carter) for the very reasons which he has stated and because I firmly believe that this amendment is essential if we are to induce mine operators and miners to produce the added coal which can benefit the energy requirements of all of the American people.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I come from an energy-starved area of these United States. I suppose that was one of the reasons that, starting in 1970, I was privileged to chair a subcommittee of the Small Business Committee that started looking into this energy situation. We soon came to the conclusion that we were going to have an energy crisis. We could not get many to believe it, but it is here now and we finally believe it.

But, since I am from an energy-starved section of this country, I am interested in more energy, No. 1. Now, some talk about coal companies as if they are all big companies—and some of them indeed are; in fact, big oil owns 25 percent of all the coal reserves in the United States. Continental Oil Co., which owns Consolidated Coal Co., owns 10 percent by itself. But, I am convinced, after spending a little time down in the big coal areas of this country, that Continental Oil or Consolidated Coal, whichever we wish to call it, is not the one that is going to furnish extra coal in a year or two. It takes a company like that 2 or 3 years to turn around. If we are going to have an increase in coal production in the next year or two, it is going to come from the little operator.

Some utility company which converted from coal to oil 2 years ago, when we needed more coal instead of converting to oil, is going to go to a coal broker and buy a certain number of tons of coal.

He is going to go to some subbroker, and eventually it gets down to a little operator down there in Appalachia. If he can get about a 3-year contract from that broker, he will go in and get a loan at the bank and buy a used truck and a used crane.

The coal is there. They know where it is. A small producer makes his arrangement on a royalty or other basis, and he produces coal.

When happened to coal prices during this period of time? TVA was paying about \$1.50 for coal 3 years ago, and after small operators by the hundreds were driven out of business, it went up to \$8.50. We had a tremendous change in the coal industry during that period of time.

What I am trying to tell the Members is this: If we get more coal in the next year or two, it has got to come from those little operators.

We cannot get it from those little operators if they cannot secure a profit margin that is different from the one prescribed in this bill. The "windfall profits" definition does not describe windfall profits at all, but in the case of coal would be a price ceiling at a level too low to encourage production.

Mr. Chairman, I am interested in energy, getting more energy instead of depending on imported oil which may not be available, and we are not going to get more coal energy in the next year or two if we do not adopt the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, I am very interested in what the gentleman is saying.

In view of the gentleman's chairmanship of the subcommittee that looked into this matter, could the gentleman tell us from those hearings whether the same thing would be true with respect to oil?

We are directing our attention through this amendment just to coal operators, but are there not some small operators of oil wells that would be in a similar situation? Would that be true?

Mr. SMITH of Iowa. To some extent.

Mr. ANDERSON of Illinois. I am referring to stripper wells.

Mr. SMITH of Iowa. That is true to some extent, but I do not think it is a parallel situation. I really do not believe the situation is exactly parallel because the investments required in oil drilling are so large that one cannot start out overnight as one can in a little coal mining operation. In other words, the flexibility in oil is not what it is in the coal industry.

Mr. FLOOD. Mr. Chairman, I move to strike the necessary number of words.

Now, Mr. Chairman, I do not think that I need your gavel, as powerful as it is, to get the attention of the Members of this Committee.

Now, Mr. Chairman, I came in here and answered the quorum call. Then I went out to a room over here on the left—where that was is none of your business—and when I came out of that room, I came back on the floor here and I found out what is going on.

Now, I have been here a long time, and I can believe almost anything. But I just cannot believe, after what I have been going through for the last several months, that any Member in this House, beginning with oil people, would make such a proposal. Do I understand correctly?

Mr. Chairman, I will just ask the gentleman from West Virginia (Mr. Staggers). Do I understand that in this can of worms there is a proposal to include the coal people in this weird business?

I am speaking of coal. Are they serious? Is this so?

Mr. STAGGERS. Mr. Chairman, the word "coal" is in the windfall profits section.

Mr. FLOOD. C-o-a-l?

Mr. STAGGERS. Yes. The gentleman from Kentucky has offered an amendment to strike it out.

Mr. FLOOD. Perhaps we had better laugh out of the other side of our faces.

Let me tell the Members something. I have been here since the memory of man runneth not to the contrary, and I have voted for oil proposals of all kinds since 1945.

Now, we have heard the coal people were talking. I presume they talked to the gentleman. I understand the gentleman from Pennsyl-

vania (Mr. Dent) was talking, as well as several other coal people; I suppose they were.

These people are all soft coal people; they are from bituminous, soft coal. Half of you people cannot spell it.

I am from the anthracite, possibly the only hard coal man in the House, McDade has a couple of spoonsful left and Yatron has a few, and that is about all of the great anthracite clean coal.

In 1924—now hear this, because you have my bowels upset—in 1924 I had 64,000 men, 64,000, working underground in my district. There were 64,000 digging anthracite coal for you. Do you know how many I have today? Well, I am not drinking, I have not had a drink in 4 years, because the doctor says I cannot. Do you know how many I have working today underground digging anthracite coal for you? 220. Not 220,000 but 220 men. Not 64,000 but 220 men.

Everybody is calling me day and night, including you, and writing me letters day and night saying "What about coal? We have to have coal; we should have coal." Well, I have the coal. I have millions and hundreds of millions of tons of coal that I can take out with a teaspoon. And we are going to start doing it. You have to have coal.

Four to five years profit on coal? You are out of your cotton-picking mind, my southern friend. Five years of profit in what? Do not give me any 5 years of profits. There ain't been no coal.

Mr. ICHORD. Will the gentleman tell us why he has only 220 men now working, in his opinion?

Mr. FLOOD. Because we have been helping the people, coal people, to supply the fuel and now there is no coal and coal is coming in from all over the world.

I am for oil and I was for it 1,000 percent. Because you got here I was for oil and for cotton and for peanuts, and I do not know one end of a cow from the other but I have been for it and for agriculture bills for 100 years.

This is coal. Do not touch coal. Support that amendment. We have to have coal last night and tomorrow.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to pose a few questions. Not only this bill but this amendment and this debate seem somewhat contradictory. I wonder if the proponents or the opponents could answer a question.

If we are to stimulate coal production through this amendment, how do you explain away an objection, that these permissible windfall profits come out of the pockets of the consumer? If I were a consumer advocate at this point, how would that question be answered?

Mr. CARTER. There have been none during the past 4 years except for one year, 1970. If you take the averages, there would be no windfall profits whatever. This is a defined term within that, and according to this legislation there could not be any profits if you took that average.

Mr. DENNIS. I would like to support this particular amendment, but I think the gentleman's question may deserve a little more fundamental and wide-ranging answer.

The real point here is, of course, that we are not, in this whole bill and in this section, doing anything to create or increase the supply of oil or coal or gas or anything else.

And the only way we are going to do it, really, is not by controls or allocation or price-fixing, it is going to be by letting the price rise on a scarce commodity so that people can make some money to go out and look for it. That is the case with coal, and that is the case with oil, and that is basically what we should be doing about it.

Mr. DERWINSKI. That is a very valid point. It would seem to me that it would be logical that the same principle would apply to the other items, oil, natural gas, and so on.

Mr. DENNIS. That is right. It is argued that rising prices bear harder on the poor, and, of course, any price ranging upward bears harder on the poor, but if we do not recognize that the prices for scarce energy will rise there is not going to be any work as industry shuts down, and, in that case, there will not be any people who will have any money to buy anything, at any price. And we are just kidding ourselves in most of this stuff.

Mr. SMITH of Iowa. Mr. Chairman, I thank the gentleman for yielding. Let me say that if we do not increase the production of coal, and if we do anything to discourage increased production of coal, then we will become more heavily dependent upon imported oil, and it will permit imported oil to get a higher and higher price. So the consumer can be helped only by the increased production of coal, and this amendment helps provide a way to increase the production of coal.

Mr. KEMP. Mr. Chairman, I thank the gentleman from Illinois for yielding to me, and I want to associate myself with the remarks made by the gentleman in the well, and those of the gentleman from Indiana (Mr. Dennis).

In answer to the question proposed by the gentleman in the well. I would tell my consumers that temporary higher prices that deregulation is in their interest and are but a signal in the marketplace to increase production which ultimately is the only way to reduce shortages. What this Nation needs is not only fuel conservation, which we all desire, but further incentives to increase the production of our vital fuel resources.

Profits will assist in the accumulation of capital necessary to find new sources of energy and for research into the development of methods for liquefaction and gasification of coal. That is what we ought to be doing for the consumer. We must restore incentives required in this high-risk business to search for new gas and oil.

Mr. DERWINSKI. Mr. Chairman, I thank the gentleman for his comments.

In closing, Mr. Chairman, I direct an observation to the comments made by the gentleman from Pennsylvania (Mr. Flood). While I understand why his coal miners have disappeared, sons of those Pennsylvania coal miners are now spread across the 50 States with athletic scholarships playing college football.

Mr. WAGGONER. Mr. Chairman. I move to strike the requisite number of words.

Mr. Chairman, I take this time simply because of the way the parliamentary situation has developed. I want to explain what I propose to do.

The gentleman from Kentucky has, because of the Rules of the House, in offering a very limited amendment, proposed striking from this **section 117** only those alleged windfall profits which apply to coal.

Now, because of the Rules of the House, if a member of the Committee on Interstate and Foreign Commerce seeks recognition at the same time I do, they will be recognized before I will. The gentleman from Michigan (Mr. Dingell), a member of the committee, insists that he be recognized next to offer an amendment having to do with the conservation of fuel by limiting unnecessary busing.

I want the House to know that as soon as I can get recognition I am going to offer a substitute for whatever remains of **section 117** at that point in time. If the gentleman from Kentucky has his amendment adopted, all of that section will remain except that part of the section having to do with coal.

It defies description to me that this House would adopt, when we are trying to get energy, an exemption on the one hand with respect to coal, and on the other hand to completely reverse itself with regard to other suppliers of energy. I expect this coal amendment to be adopted and I am going to support it, but to those Members who are interested in exempting windfall profits in the instance of coal, do not forget that those products which come from coal are not just energy; in the future, in an ever increasing way, some of those products are going to take the form of petroleum products in one form or another and thereby be subject to the remaining limitations of the section.

So there is only one fair thing to do, and I will point out to you why this section is totally unworkable when that time comes. Under the rules of the House, now adopt this limited amendment and then adopt a substitute for the remainder of the section which I am going to offer whenever I can get recognition. The adoption of this coal amendment, however, will probably cause the defeat of my substitute amendment.

Mr. PEYSER. Since this is the time for observations, I should like to observe, just having checked at the desk, that at the present rate we are going on this amendment—I think we are ready to vote and pass this amendment—there will be over 32 hours of debate, and I should like to suggest that we now vote on this amendment.

Mr. WAGGONNER. I accept the gentleman's suggestion, but because of the confusion if it takes 64 hours rather than 32 hours, I will be sitting waiting to offer this substitute when the time comes.

Mr. KEMP. I thank the gentleman for yielding. I join with the gentleman in support of this amendment of the gentleman from Kentucky—I will also join him in his amendment. I just want to point out there was a statement made earlier on the floor from the well that evidences some confusion as to who is drilling wells in this country. It is my understanding that 60 or 70 percent of the wells in this country today are drilled by independent drillers, many of whom have gone broke and out of business recently because of "windfall losses."

Profits are the incentive to go into this high-risk business and I support Mr. Waggonner in his amendment attempt.

Mr. WAGGONNER. I will tell the gentleman that the people who are cold who ask for heating oil, or who cannot get gasoline when they drive up to that gas pump do not ask who supplies it. All they want is the product.

Mr. ROY. I will inform the committee that at the proper time I will offer an amendment to exclude the small independent operator. I do not know whether that will be prior to Mr. Waggonner's amendment or not.

Mr. WAGGONER. If the gentleman will just stay in his seat until I get recognition, it will not be prior to it.

Mr. Chairman, I certainly am going to support this amendment because we must recognize that we have two responsibilities here, one of which is to get a limited amount of energy to the right sources. The second is, we must also look down the road to provide energy for the future, and coal is the greatest resource we have.

I do have one question. The gentleman may not be able to answer it, but maybe the author can. How will this affect companies who do not have fuel holdings? They will have other sources of energy besides coal. They will have 75 percent of energy in other types, but they also have coal. How will this amendment affect them?

I do not know about the amendment, but logically, should it apply, nothing will affect anything other than those prices and those profits which stem therefrom, having to do with the products mentioned here.

Mr. MYERS. Only that section of the amendment, then, pertaining to coal still would encourage development of our coal resources of the country; is that the gentleman's judgment?

Mr. WAGGONER. Yes, sir.

Mr. WINN. I just wonder if the gentleman from Louisiana would tell us the thrust of this amendment of which he speaks.

Mr. WAGGONER. The thrust of the amendment which I will propose when I can get recognition will be to strike all that remains of **section 117** and provide that we utilize this law and the Economic Stabilization Act of 1970, as amended, to permit no more than reasonable profits and require the administration to submit legislation to us which will permit the Congress to limit profits to a reasonable level.

Mr. MOSS. Mr. Chairman, because of the clear inference that has been made immediately here, that the coal industry lacks profitability, I had my staff counsel do some inquiring, and I supply for the benefit of my colleagues the following figures on the rate of return on investment by the coal industry. In 1967, 9.2 percent; in 1968, 9.2 percent; in 1969, 7.6 percent; in 1970, 14.4 percent; in 1971, 8.4 percent. This, I believe, is a rather respectable picture of profitability rather than the bleak picture of the lack of profitability.

I think that at least this record should reflect that fact before we vote upon this.

I thank the gentleman from Washington for yielding to me.

Mr. WALDIE. Mr. Chairman, just an observation from a Member who does not represent any of the energy extracting industry but who may be exhibiting the type of reaction that an awful lot of people in this country might have who may be listening to this debate. It seems to me the way the energy industry is being described on the floor of the House today that while this country is in an enormous crisis and suffering from lack of energy and all Americans being asked to make great sacrifices in their schools and in their hospitals and in their homes because there is not enough energy, the energy industry apparently is sitting on inventories of energy sufficient to meet the needs of the people of this country. They will continue to sit on those energy inventories unless they are given substantial profits to get them out and onto the marketplace.

Where in the world is the equivalent sacrifice on the part of the energy industry that we are asking of our people? When we have been confronted in past times in history with similar crises in this country and there were not sufficient voluntary responses by the people, there was compulsion on the part of the Government to force a response from the people. The draft of young men to fight wars in such an example.

The energy industry, if the voices I am hearing on the floor today are representative of the energy industry, is eliciting that sort of compulsion. This country will not tolerate and neither should they tolerate inventory supplies of energy being sat upon until such time as exorbitant profits are guaranteed to stimulate the extraction and marketing of energy.

The people are entitled to better than that, and if the energy industry does not provide better than that under this system, then there will be a different means of obtaining an appropriate sort of response from the industry.

Mr. BELL. Mr. Chairman, I would like to ask the gentleman if the coal companies cannot carry forward a tax loss over previous years to the next 5 years? Perhaps they cannot under a ruling of the Renegotiation Board, but under the present Tax Court ruling they would be able to carry forward losses of the previous 5 years to the next 5-year period. I am wondering whether or not they could do it with the coal industry, which would tend to question the validity or need of this amendment.

Mr. ADAMS. To whom did the gentleman from California address his question?

Mr. BELL. Either to the gentleman from Washington or to the gentleman from California (Mr. Moss) if he is aware of that.

Mr. ADAMS. The tax loss carry forward are for a 5-year period to the best of my knowledge.

Mr. BELL. Would not a coal company loss be a valid loss to be carried forward for 5 years? I know there may be a difference between tax rulings and Renegotiation Board rulings, but this is a matter, which I feel sure the Board ruling would consider the same way as the Tax Court would. That is that coal companies with previous years losses, would be able to carry those losses forward for the next 5 years. If this is true what is the need for this amendment?

Mr. ADAMS. I do not know.

Mr. DENT. Mr. Chairman, I do not know anything about how the industry itself handles its tax profits but the gentleman must understand that there is something completely different in coal. For instance, in a coal mine we have to have great areas of land. We cannot start a coal mine with 1,000 acres.

Mr. BELL. Mr. Chairman, I would like to ask the gentleman from Oregon, the vice chairman of the Ways and Means Committee, that question.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. DENT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not want to take more than a moment but I do want to say this. In order to mine coal we have to deal sometimes

with hundreds of landowners. We do not deal with just one individual, except in extraordinary cases where they may have had a whole estate going back to the early days, with thousands of acres. But right now, today, we can go out and buy the coal under the ground and we have to pay the man who owns the surface so much. Would a Member take a million dollars for his land to have coal mined out of it, and have the land be destroyed in a sense, in order to make 9 percent, or would the Member take a million dollars and sell the land to a housing development? And that is what is happening to us. We have lost 80,000 to 90,000 acres of good metallurgical coal because we cannot mine under the ground once structures have been put on top of it. We are not dealing with the same situation as with an oil well. When we get oil, we turn a valve and get it out of the ground. The coal makes dirt. It makes a dirty, messy situation.

And today to open a coal mine, one has to spend \$100,000 to get a mine that will produce 1,000 tons a day. It would be better to take the \$100,000 and put it into any investment today. I just noticed a new issue of a bond the other day which pays 11¾ percent. We do not have to worry about anything if we dig a coal mine and take the chance the Arabs will change their minds a year from now, turn the valves loose, and we will be sitting there with a coal mine because no one will buy coal.

MR. CARTER. Is it not true that yesterday the gentleman and I received this information which I gave this House and we went over it together as to the profits of 1970? I want to make that clear.

MR. DENT. But the increase in coal production, the new mines that have been opened in the last 14 and 15 months in this country, do not have a 5-year carryover.

MR. FLOOD. There is one thing I would like to make perfectly clear, and for the oldtimers who have been here, did they ever think they would live long enough to hear Flood of Pennsylvania down here as a mouthpiece for the coal companies? Did they think I would be a mouthpiece for these coal barons?

There are 100,000 miners dead from black lung disease who will turn over in their graves right now, who know what I am talking about. If they think I am here arm grabbing for these old-line coal barons that raked and destroyed my area in the State of Pennsylvania, just remember that I am not afraid to say no, certainly not.

I would agree with the gentleman. I have for years and said so long before the gentleman did speak out against such outrageous profits.

The fact of the matter is that "there just ain't no profits" and the one man in the House, the gentleman from California, is trying to outshine me with that red coat. If there is one man I would hope today after hearing what I said today in connection with coal. I would expect him to join with me in support of this amendment, and that would be the gentleman from California. He has been here a long time. He knows what I said.

The gentleman will not see me defending excess profits for the money-grabbing barons; and by the way, the foreign landlords, the barons from New York and Philadelphia, who destroyed my people and destroyed my country; me support them? They must be crazy.

MR. DENT. Mr. Chairman, this is the only nation on the face of the Earth that does not allow a complete writeoff of capital expenditures

for mineral resources before any taxes are made on profits. This is the only nation that does not allow coal mining or any other mining to develop anything in the natural resources field. Unless we take out the money we put in first, then we can pay the taxes. That is why we have had no exploration. That is why we have had no development of coal. If we had gone on the basis of coal development, the Arabs could no longer thumb their noses at us.

Mr. CRANE. Mr. Chairman, I move to strike the requisite number of words. I just want to make a brief comment.

It is in response primarily to the suggestion of exorbitant profits in the energy fields.

I have the profit figures for Shell Oil, one of the larger oil companies, from 1968 through 1972. The only reason I would like to read these into the record is that there have been published recently reports of the great increase in profits of the oil industry. The media has observed that Gulf Oil had a 91-percent increase this year over last.

Exxon reportedly had an 80-percent increase in profits this year over last. I suspect that there are some uncritical headline readers who assume they are talking about profits when they say the figures are 91 percent and 80 percent. The fact is, that is a percent of increase over last year's profits. If your profits last year were 5 percent for example, and reached 9 percent this year, that would represent an 80-percent increase in profits between the 2 years. To get a handle on what last year's profits were, I can give the Members some figures for that period.

Last year, Shell's profits were 5.4 percent; in 1968, they were 7.9 percent; they dropped in 1969 to 6.8 percent; in 1970 they were 5.5 percent; and in 1971, they were 5.1 percent.

As I say, last year they were 5.4 percent, hardly an exorbitant profit, particularly when we realize that the Government was paying 10 percent on its notes to anyone who was inclined to make that kind of investment, and so were banks.

One other point in this connection is the cost of creating jobs. Since 1965, we have suffered from the baby boom population coming out of the World War II era. This means that we have been trying to create jobs twice as fast over the past 8 years as we did in the preceding 20-year period. That baby boom population is still going to be hitting the job market during the remainder of the years of this decade. In terms of what financing is necessary to create jobs, it costs better than \$20,000 to create a job, and we are going to have to create them still at these or higher levels. When we get into such esoteric fields as petrochemicals, the cost to industry to create a job can easily run as high as \$125,000.

Mr. Chairman, I would only suggest to the gentleman from California that he might peruse those figures before making the kind of reckless indictment of industry profits contained in his remarks.

Mr. HOSMER. Mr. Chairman, I think it would be interesting at this point to ascertain what is the usual rate of return on capital generally considered in this country to be required to attract equity capital in order to expand the production of coal and oil? I understand that it is around 12 to 15 percent in order to be able to compete for money against other kinds of activities; is that correct?

Mr. CRANE. Yes, that is correct.

Mr. McCCLORY. It seems to me that the greater danger in this energy crisis is to listen to those who say that there is no energy crisis, and who suggest that the inventories of oil and gas should be disposed of as a solution to this energy crisis. This, of course, is a disservice to the whole subject of our deliberations here today because the fact is that the inventories of oil and gas are down, and that is one important reason why we are anticipating and endeavoring to meet the serious energy crisis which is confronting us.

Mr. BELL. Mr. Chairman, I take the microphone for the purpose of asking the gentleman from Oregon (Mr. Ullman) chairman of the Ways and Means Committee, a question.

I wanted to ask him, inasmuch as this has a definite pertinence to the matter at issue, as to whether coal companies could get the benefit of a tax carry forward. Obviously, if they could, there would not be a great need for this amendment. I am asking the gentleman from Oregon if he would try to clarify that matter.

Mr. ULLMAN. Mr. Chairman, one of the problems with this legislation is the fact that it, of course, does not amend the tax code. It is not within the jurisdiction of the committee. Therefore, it does not take into consideration the normal tax laws.

The Renegotiation Board obviously would make its own rules and regulations with respect to profits, but it would not have to relate to the income taxes imposed at all.

Therefore, because it does not relate to the income tax code, there is nothing in the legislation that would require the Renegotiation Board to consider that, so that is one of the problems we tried to deal with in this way.

It seems to me the most meaningful way to handle excess profits or windfall profits would be within the tax code. It would be my hope that early next year we might be able to deal directly with this problem by putting into the tax code an excess profits section.

Mr. PRICE of Texas. Mr. Chairman, I agree with the gentleman's remarks and I appreciate the fact they have been placed in the record.

When the time comes, I will offer an amendment to deregulate gas at the wellhead as a means of stimulating, first of all, the energy in this country.

I believe we must make use of what we have available at the present time, and this would be a proper approach.

Mr. PREYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. ECKHARDT. Mr. Chairman, I should like to point out that the purpose of this windfall profits section is to provide that both the coal and oil industries put money into exploration and into more efficient ways of producing. But I am extremely impressed by the statement of the gentleman from Pennsylvania (Mr. Dent).

The gentleman from Pennsylvania (Mr. Dent) stated that one of the years in the 5-year period was the only year in which coal made a profit. For that reason I will offer an amendment, when I have an opportunity to do so, in the event that this amendment fails—because

I think his points are well taken—to provide that with respect to coal, the highest of the 5 years should be available for coal, with respect to the minimum profit level which would be protected.

Now, the result of that amendment would be that with respect to percent of profits on sales, coal would then be limited to 7½ percent, that is, its highest year, whereas oil would be determined on its average for 5 years, which is just about the same. It is 7.7 percent.

Incidentally, if it is calculated concerning net worth, the highest year for coal would be way up to 14 percent, so it would not be oppressive if that formula were used.

Mr. Chairman, in the event that the amendment now on the floor should fail, I will attempt to offer that amendment, because I think the position of the gentleman from Pennsylvania (Mr. Dent) is well taken, and I would not wish to restrict coal unduly, as opposed to other fuels.

Mr. BURLISON of Missouri. I am intrigued, Mr. Chairman, by all the discussion about restrictions on margin of profits concerning the oil companies and coal companies of anywhere from 5 to 15 percent.

I think it is appropriate here to recognize that the return on investment to the farmers of this country is only 3.4 percent.

Mr. FRASER. Mr. Chairman, some of the statements made in the debates seem to me to miss the problem that we are faced with. There is no assurance that if we permit windfall profits in the coal industry, those profits are going to be reinvested rather than paid out as dividends to the shareholders.

There has been talk about trying to rewrite this or some other restriction on profits to require reinvestment, but that is not in here. If we take out the restrictions on coal, they can enjoy windfall profits, and they can pay this out in the form of dividends to the shareholders, and there is no requirement that the money be reinvested.

Mr. Chairman, I represent the consumers' interest in energy, and I know that in my State the purchasing power of wage earners is down by 3 to 4 percent in relation to what they were able to buy a year ago. That is because of inflation. Now, they are being asked to pay more for fuel oil and for gasoline, and they are going to be asked to accept shortages.

What we are seeing now is that despite the fact that the average working person in the United States is worse off today than he was a year ago, and now he is going to pay more for energy, the big oil companies who own the coalfields are going to be given a blank check to make windfall profits under a scarcity situation which has been exacerbated by the Middle East war.

I find that to be intolerable. I think it would be one of the biggest ripoffs on the working people of this country ever perpetrated in all the time that they have been called upon to make sacrifices.

This amendment ought to be defeated. The proposal by the gentleman from Texas (Mr. Eckhardt) to give some relief to the coal industry by using the highest of the annual profits of the last 5 years is a more defensible proposal.

However, to ask the working people of this country to allow the coal industry, which is owned by the oil industry, to make windfall profits while the prices they have to pay for these products go up is incredible.

Mr. DENT. I may say to the gentleman from Minnesota that we, too, are consumers. I have voted for some 40 years for every foreign aid bill that has ever come before this body. I voted for subsidy programs for the farmers even though we are the consumers. We buy the products that they grow, and we pay for it. I have voted against the ceiling price that they were trying to put on farmers last year. Why? Because I thought they had an opportunity at last to make some money with which they could pay for those mortgages that they had and to buy new farm machinery so that they could grow more and sell it for less. That is all. I am speaking as a consumer representing consumers, but I want those who produce, whether they are farmers or coal companies or oil companies or whatever it is, to make a profit because that is the kind of a government we live in. I know they have to make a profit, and I want them to make a profit. Without a profit they will not raise cattle or grow corn or mine coal. That is the kind of government we have. If you can get it done without that, it would be a happy day, but we just cannot do it.

My fine friend from Texas would put a 7½-percent profit lid on, but I say if you are going to do it in this field, let us extend it to the other products. Let us extend it to automobiles and to all of the other things. The depletion allowance is what killed the coal business.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. Carter).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BURTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 256, noes 155, present 2, not voting 19, as follows:

[Roll No. 661]

AYES—256

Alexander	Broyhill, N.C.	Daniel, Dan
Anderson, Ill.	Broyhill, Va.	Daniel, Robert W., Jr.
Andrews, N.C.	Buchanan	Davis, Ga.
Annunzio	Burgener	Davis, S.C.
Archer	Burke, Fla.	Davis, Wis.
Arends	Burleson, Tex.	de la Garza
Armstrong	Butler	Denholm
Ashbrook	Byron	Dennis
Baker	Camp	Dent
Barrett	Carter	Derwinski
Bauman	Casey, Tex.	Devine
Beard	Cederberg	Dickinson
Bevill	Chamberlain	Diggs
Blackburn	Chappell	Dingell
Blatnik	Clark	Dorn
Boggs	Clausen, Don H.	Dulski
Bowen	Cleveland	Duncan
Bray	Cochran	Edwards, Ala.
Breaux	Collins, Tex.	Eilberg
Brinkley	Conable	Esch
Broomfield	Conlan	Eshleman
Brotzman	Crane	Evans, Colo.
Brown, Ohio	Culver	Evins, Tenn.

Findley	McDade	Ruppe
Fisher	McEwen	Ruth
Flood	McKay	Ryan
Flowers	McKinney	Sandman
Flynt	McSpadden	Sarasin
Ford, William D.	Madden	Satterfield
Forsythe	Madigan	Scherle
Fountain	Mahon	Schneebeli
Frelinghuysen	Mailliard	Schroeder
Frey	Mallary	Sebelius
Fulton	Maraziti	Shipley
Fuqua	Martin, Nebr.	Shriver
Gaydos	Martin, N.C.	Shuster
Gettys	Mathias, Calif.	Sikes
Gialmo	Mayne	Sisk
Ginn	Melcher	Skubitz
Goldwater	Michel	Slack
Goodling	Milford	Smith, Iowa
Gray	Minshall, Ohio	Snyder
Green, Oreg.	Mizell	Spence
Gross	Mollohan	Staggers
Gude	Montgomery	Stanton, J. William
Haley	Moorhead, Calif.	Steed
Hamilton	Moorhead, Pa.	Steelman
Hammerschmidt	Morgan	Steiger, Ariz.
Hanrahan	Murphy, Ill.	Stephens
Hansen, Idaho	Murphy, N.Y.	Stratton
Hansen, Wash.	Myers	Stubblefield
Harsha	Natcher	Stuckey
Hastings	Nelsen	Sullivan
Hays	Nichols	Symington
Hébert	Nix	Symms
Henderson	O'Brien	Talcott
Hicks	O'Hara	Taylor, N.C.
Hillis	O'Neill	Teague, Calif.
Hogan	Owens	Teague, Tex.
Holt	Parris	Thomson, Wis.
Hosmer	Passman	Thornton
Huber	Patman	Towell, Nev.
Hudnut	Perkins	Treen
Hungate	Pettis	Udall
Hutchinson	Pickle	Ullman
Ichord	Pike	Vander Jagt
Jarman	Poage	Veysey
Johnson, Colo.	Powell, Ohio	Waggonner
Johnson, Pa.	Preyer	Wampler
Jones, Ala.	Price, Ill.	Ware
Jones, N.C.	Price, Tex.	Whitehurst
Jones, Okla.	Pritchard	Whitten
Jones, Tenn.	Quillen	Widnall
Keating	Railsback	Williams
Kemp	Randall	Winn
Ketchum	Rarick	Wylie
Kluczynski	Rhodes	Wyman
Kuykendall	Robinson, Va.	Yatron
Landgrebe	Robison, N.Y.	Young, Alaska
Landrum	Rogers	Young, Ill.
Lent	Roncalio, Wyo.	Young, S.C.
Litton	Rose	Young, Tex.
Lott	Rostenkowski	Zablocki
McClory	Rousselot	Zion
McCollister	Roy	Zwach
McCormack		

NOES—155

Abdnor	Foley	Mitchell, N.Y.
Abzug	Fraser	Moakley
Adams	Frenzel	Mosher
Addabbo	Froehlich	Moss
Anderson, Calif.	Gibbons	Nedzi
Andrews, N. Dak.	Gilman	Obey
Ashley	Gonzalez	Patten
Aspin	Grasso	Peyser
Badillo	Green, Pa.	Podell
Bafalis	Griffiths	Quie
Bell	Grover	Rangel
Bennett	Gunter	Rees
Bergland	Guyer	Regula
Biaggi	Hanley	Reid
Biester	Hanna	Reuss
Bingham	Harrington	Riegle
Boland	Hawkins	Rinaldo
Brademas	Hechler, W. Va.	Roberts
Brasco	Heckler, Mass.	Rodino
Breckinridge	Heinz	Roe
Brooks	Helstoski	Roncallo, N.Y.
Brown, Calif.	Hinshaw	Rosenthal
Brown, Mich.	Holifield	Roush
Burke, Mass.	Horton	Roybal
Burlison, Mo.	Howard	St Germain
Burton	Jordan	Sarbanes
Carey, N.Y.	Karth	Seiberling
Carney, Ohio	Kastenmeier	Shoup
Chisholm	Kazen	Stanton, James V.
Clancy	King	Stark
Clawson, Del.	Koch	Steele
Clay	Kyros	Steiger, Wis.
Cohen	Latta	Studds
Collins, Ill.	Leggett	Thone
Conte	Lehman	Tiernan
Conyers	Long, La.	Van Deerlin
Corman	Long, Md.	Vanik
Cotter	Lujan	Vigorito
Coughlin	McCloskey	Waldie
Cronin	McFall	Whalen
Daniels, Dominick V.	Macdonald	White
Danielson	Mann	Wiggins
Delaney	Mathis, Ga.	Wilson, Bob
Dellenback	Matsunaga	Wilson, Charles H., Calif.
Dellums	Mazzoli	Wilson, Charles, Tex.
Donohue	Meeds	Wolff
Drinan	Metcalfe	Wright
du Pont	Mezvinsky	Wylder
Eckhardt	Miller	Yates
Edwards, Calif.	Minish	Young, Fla.
Fascell	Mink	Young, Ga.
Fish	Mitchell, Md.	

ANSWERED "PRESENT"—2

Rooney, Pa.

Smith, N.Y.

NOT VOTING—19

Bolling	Holtzman	Stokes
Burke, Calif.	Hunt	Taylor, Mo.
Collier	Johnson, Calif.	Thompson, N.J.
Downing	Mills, Ark.	Walsh
Erlenborn	Pepper	Wyatt
Gubser	Rooney, N.Y.	
Harvey	Runnels	

So the amendment was agreed to. [Sec. 117(a)]
The vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. DINGELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by Mr. STAGGERS.

The Clerk read as follows:

Amendment offered by Mr. Dingell to the amendment in the nature of a substitute offered by Mr. Staggars: Page 7, line 21, strike out the first period and the quotation marks.

Page 7, insert after line 21 the following:

"(k) (1) Except as provided in paragraph (3) of this subsection, no provision of the regulation under subsection (a) (including a regulation under subsection (h)) may provide for allocation of any refined petroleum product to any person (including a State or political subdivision thereof, or State or local educational agency) if the product so allocated will be used for the transportation of any public school student to a school farther than the public school closest to his home offering educational courses for the grade level and course of study of the student within the boundaries of the school attendance district wherein the student resides.

"(2) Any energy conservation plan proposed under section 105 of the Energy Emergency Act and any regulation under this section for allocation of petroleum products for transportation of public school students shall have as its purpose conserving refined petroleum products by reducing to the minimum the distance traveled by such students to and from the schools within the school attendance district in which the student resides. Such plans shall be formulated in consultation with the affected State and local educational agencies.

"(3) Nothing in this section shall prohibit allocation of refined petroleum products for student transportation to relieve conditions of overcrowding; to meet the needs of special education; or where the transportation is within the regularly established neighborhood school attendance areas.

"(4) This subsection shall not take effect until August 1, 1974."

Page 32, line 14, strike out "(k)" and insert in lieu thereof "(j)".

POINT OF ORDER

Mr. ADAMS. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ADAMS. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Washington reserves a point of order against the amendment.

The CHAIRMAN. Some Members stated yesterday they were concerned about the procedure. It would be helpful to the Committee in providing for an orderly procedure if Members of the Committee would cooperate and have order.

The Chairman does not expect to proceed in the proceedings of this Committee except when the Committee is in order. It would be helpful to the Committee if Members will take their seats and if they will refrain from conversation.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. Mr. Chairman, I note that the gentleman from Washington (Mr. Adams) has reserved a point of order. I assume that I am to address myself to the amendment at this time, and will later be recognized for the purposes of addressing myself to the point of order.

The CHAIRMAN. The gentleman is correct.

Mr. DINGELL. Mr. Chairman, this is an amendment which is offered by me on behalf of a large group of colleagues, among whom is Mr. Huber, my colleague and friend from the State of Michigan, who I think perhaps originated the concept of this particular amendment. Also sponsoring the amendment, among our other colleagues, are Mr. Satterfield, Mr. Lent, Mrs. Green of Oregon, Mr. Hogan, Mr. Waggoner, Mr. Flowers, Mr. Collins of Texas, and Mr. Milford.

Mr. Chairman, this amendment says that no petroleum, no refined petroleum product will be allocated for purposes of transportation of schoolchildren farther than the neighborhood school nearest their homes. It refers to public schools and to public school children and not to private schools or to private school children. It does allow for allocation of petroleum products for transportation for special education and to alleviate conditions of overcrowding.

I would point out that the "overcrowding" referred to is overcrowding limited solely to conditions where the school board acts to abate genuine overpopulation.

Under **section 105**, which is a related section, any plans which are submitted regarding conservation of energy which relate to transportation of public school students, must have as their purpose the conservation of refined petroleum products by reducing to the minimum distance, the distance traveled by students to and from schools within the school attendance district of the students' residence.

The amendment establishes the clear policy of this Congress that transportation of students to school shall be for the minimum distance, and it says that we will so construe our allocation programs of refined petroleum products.

I had the other day the Library of Congress make a study of the number of schoolbuses, the distances schoolbuses travel and the amount of gasoline and other refined petroleum products utilized. According to the National Association of School Bus Contract Operators, there are about 290,000 schoolbuses in the United States serving public and private institutions. The average mileage for these buses is estimated to be 5 miles per gallon. The average daily run is 60 miles per schoolbus, and it is estimated by the association that schoolbuses operate approximately 180 days per year. This last figure can be verified through the usual State statutes which relate to the number of days under which schoolchildren will be required to attend the schools under State law.

The estimated consumption for the schoolbuses is 626,400,000 gallons. The figure is arrived at by the appropriate multiplications of the figures just cited. The National Association of School Bus Contract Operators has estimated that busing to achieve racial balance will use approximately 121½ percent of this figure. This comes out to be 78,300,000 gallons of gasoline which will be saved by the amendment.

In Prince Georges County, which is adjacent to Washington, D.C., it was estimated that enforced schoolbusing for racial balance uses up about 750,000 gallons per year.

Obviously, if we say that we are going to have gasoline in scarce supply subject, according to this mornings paper, to a 5-percent cut; subject to broad allocations to achieve public purposes, then it becomes plain that it is necessary for us to allocate this scarce resource in the best fashion.

Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 4 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. CONYERS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

POINT OF ORDER

The CHAIRMAN. The gentleman from Washington (Mr. Adams) has reserved a point of order.

The Chair will hear the gentleman on his point of order.

Mr. ADAMS. Mr. Chairman, I make a point of order against this amendment.

Mr. Chairman, I think this is one of the most important points of order that we will argue in this session of Congress.

As the Chair is well aware, under rule XXIII, the Chairman of the Committee can cite the point of order regardless of rulings of the Speaker.

The Chairman has full discretion.

Mr. Chairman, I make the point of order that this amendment is not germane. It is not germane under several propositions:

First, it does not apply to the fundamental purposes of the bill.

As is set forth in Cannon's precedents and in Hind's precedents, it is required that any amendment be to the fundamental purpose of the bill. The fact that the bill contains many subjects does not necessarily mean that another subject can be added.

I refer in particular to the ruling of the Chair in 5 Hind's Precedent, 5825, which states as follows:

While a Committee may report a bill embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment.

Now, this subject, the busing of schoolchildren, is a new subject by way of amendment.

I also make the point of order, Mr. Chairman, that this must be germane to the particular section or paragraph to which it is offered. There is nothing in this paragraph on schoolbusing, and on the second page of the amendment, there is a reference to section 105 as well as to section 103.

Mr. Chairman, I make the point of order on the basis of germaneness that this is not germane, because it deals with a subject matter that is foreign to the subject matter of the particular paragraph. And I quote now from 8 Cannon's Precedents, 2918, which was a bill from the Committee on Interstate and Foreign Commerce, in which they were deal-

ing with child labor in interstate commerce and an amendment was offered to apply this to foreign commerce, and the Chair ruled as follows:

It seems to the Chair that most of the gentlemen who argued in favor of this proposition have discussed the power of Congress to regulate both interstate and foreign commerce rather than the question of whether the proposition regulating foreign commerce is germane to a bill regulating interstate commerce. Two subjects are not necessarily germane to each other because they are related.

The Chair believes this is a bill to regulate child labor and interstate commerce and, therefore, that an amendment proposing to extend it to foreign commerce is a different matter and not in order.

Further, in Cannon's Precedents, under 2951, there is this proposition:

An amendment proposing to add an individual proposition to a bill embodying another individual proposition is not admissible even though the two propositions belong to the same class. To a bill providing for insurance for crews of vessels an amendment providing for insurance for sailors transported on such vessels was held not to be germane.

Now, in this bill, Mr. Chairman, we are providing for allocation of fuel products, and it seems to me that this precedent which provides that we cannot add an amendment applying to those who were being transported on a vessel, is directly in point, and that the amendment offered by the gentleman is not germane.

Mr. Chairman, I would further state that in this particular matter we are dealing with the fundamental purpose of the bill. The fundamental purpose of this bill is not to regulate the busing of children. That is before the Committee on Labor and Education.

Under the principles set forth in VIII Cannon's Precedents, section 2911, it is clearly stated of child labor, which was particularly involved there, that you could not extend the proposition.

Therefore, Mr. Chairman, because this is not germane to the section to which it is offered and because it involves not being germane to the fundamental purpose of the bill because it is not germane even though there are several subjects embraced in this bill, I therefore make a point of order against it.

I now yield to the chairman of the full committee, the gentleman from West Virginia (Mr. Staggers).

MR. STAGGERS. Mr. Chairman, I too, would like to make a point of order against the amendment because the Committee on the Judiciary spent a great deal of time considering the various constitutional problems associated with schoolbusing, and it comes properly within the jurisdiction of the Committee on Education and Labor and not this committee. I do not think that we should, in a bill dealing with trying to solve an economic crisis, deal matters attempting to correct racial imbalances by means of busing of schoolchildren.

MR. ADAMS. Mr. Chairman, I finish my argument by stating in V Hinds Precedents, section 5825, despite the fact that this bill has within it a number of different subjects, it is not in order to introduce a new subject by way of amendment.

Mr. Chairman, the regulation of schoolbusing through the allocation of fuel or the failure to allocate fuel is introducing a new subject into this bill. Even though there are many subjects involved in it, it is one that is not properly before the Committee at this time.

Therefore, Mr. Chairman, I urged that the point of order be sustained and that the amendment offered by the gentleman from Michigan be ruled out of order.

The CHAIRMAN. Does the gentleman from Michigan desire to be heard on the point of order?

Mr. DINGELL. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan, may proceed.

Mr. DINGELL. Mr. Chairman, my good friend from Washington has made a most eloquent and moving statement regarding germaneness. It is regrettable that he has apparently not read the amendment which he discusses, because I read in the amendment nothing which refers to matters under the jurisdiction of the Committee on the Judiciary, nothing relating to enforced schoolbusing, nothing relating to civil rights.

Quite to the contrary, Mr. Chairman, I read into the amendment the conservation of energy, the conservation of petroleum products, the conservation of refined petroleum products.

Mr. Chairman, my friend from Washington cited a great number of precedents, and again I say it is most regrettable that he has not bothered to read the amendment which is before us, because the amendment before us relates to the conservation of energy as does the bill before us.

For the assistance of the Chair and my good friend from Washington, for whom I have an abundance of affection and respect, I will read now from page 442 of the Rules of the House of Representatives, under rule XVI, clause 7, which is a rule relating to germaneness and which was not cited by my good friend from Washington, and to read under the annotations thereunder this language:

Whether or not an amendment be germane should be judged from the provisions of its text rather than from the purposes which circumstances may suggest.

The text is before the Chair. The Chair has read the text, I am sure, in his preparation for ruling upon the matter before us.

This amendment relates to allocations of products. It is specifically a prohibition upon the allocation of products. **Section 103** to which this amendment is drafted is an amendment to the Emergency Petroleum Allocation Act of 1973. **Section 103**, as the Chair will note, at page 4, line 4, relates to priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence.

The amendment directs the President as to the way such users may receive oil. It refers in line 11 of that page 4 to transportation services. We transport hundreds of thousands of children in schoolbuses. This relates to the kind of allocation and priority of the users of that kind of transportation.

Further down in the same page, page 4, it refers again at line 17 to the President to cause such adjustments in the allocation. Again, at line 19, the word "allocation"—as may be necessary to provide for the allocation of crude oil, residual fuel oil or any refined petroleum product.

Again at the bottom of page 4, line 24, "The President shall provide for procedures by which any user of such oil or product for which

priorities and entitlements are established under paragraphs 1 and 2."

It provides for petition and review and reclassification and modification of any determination regarding priorities.

At page 5, lines 1 through 4, and on the following page 6, under line 4, the term "allocation" is again referred to.

Coming now to page 7, section (j)—

The CHAIRMAN. The Chair will tell the gentleman from Michigan that, unless the gentleman wishes to continue, that the Chair is ready to rule.

Mr. DINGELL. Mr. Chairman, I would just like to continue for a moment, if I may.

The amendment is an amendment to **section 103**, which relates to allocation. The provisions of **section 105**, which are referred to, properly are treated in this particular amendment.

Mr. Chairman, I am prepared to reserve any further comments.

The CHAIRMAN (Mr. Bolling). Unless there are other Members who desire to be heard on the point of order, the Chair is prepared to rule.

The Chair has had the opportunity to examine the amendment for some hours—in fact, for approximately 1 day. The Chair has diligently searched the precedents. The Chair finds that the point of order made by the gentleman from Washington (Mr. Adams) that the amendment offered by the gentleman from Michigan (Mr. Dingell) is not germane to the amendment in the nature of a substitute, is not good.

The Chair would like to describe why.

The amendment is offered to **section 103** of the amendment in the nature of a substitute which deals with the authority of the President to establish rules for the ordering of priorities among users of petroleum products. **Section 103** specifies that in ordering such priorities, the maintenance of vital services in the areas of education and transportation is to be emphasized. The amendment of the gentleman from Michigan (Mr. Dingell) restricts the authority bestowed upon the President by the pending substitute and by the portion of the Emergency Petroleum Allocation Act which is proposed to be altered. The amendment refers to fuel allocation regulations to be issued under the act, and is germane.

The Chair must, therefore, overrule the point of order.

PARLIAMENTARY INQUIRIES

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ADAMS. Mr. Chairman, as I understand the present situation, we have pending a substitute, and the amendment of the gentleman from Michigan (Mr. Dingell) to the substitute.

Am I correct that no amendment is in order to the amendment offered by the gentleman from Michigan (Mr. Dingell) at this point.

The CHAIRMAN. The Chair would request the gentleman from Washington to restate the precise language of the gentleman's last sentence.

Mr. ADAMS. Mr. Chairman, is it correct that no amendment is in order to the amendment of the gentleman from Michigan (Mr. Dingell) which is presently pending?

The CHAIRMAN. The gentleman is correct.

Mr. ADAMS. Mr. Chairman, my second parliamentary inquiry is this: That, assuming this amendment is disposed of, either voted down or—and we will assume first that it were to be adopted—would a further amendment to this subject matter at a separate point in this section be in order?

The CHAIRMAN. A further germane amendment to the bill could be offered.

Mr. ADAMS. To the section, but not to the particular language if it is adopted, is that correct, the House having acted on this language?

The CHAIRMAN. The essence of the answer that the Chair will give is that one cannot amend an amendment that is adopted.

Mr. ADAMS. I thank the Chair for its ruling.

Mr. STAGGERS. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I am going to, if I can, realizing the emotional issue we have before us, ask for limited time before we get into this issue.

Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mrs. GREEN of Oregon. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close at 2 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mrs. GREEN of Oregon. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close at 2:30.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. MILFORD. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I move that all debate on this amendment close at 2:30 o'clock.

The CHAIRMAN. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was made will be recognized for a little less than 1¼ minutes each.

The Chair recognizes the gentleman from Virginia (Mr. Dan Daniel).

Mr. DAN DANIEL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan (Mr. Dingell).

All of us are keenly aware of the tremendous impact which the fuel shortage is having on all our lives. At the same time that strenuous efforts are being made to conserve gasoline, great quantities are being used in the experiment of forced busing of pupils in the public schools. These policies have long since been criticized on the basis of their

own merits—or lack of merit. Now—in light of the fuel crisis, it becomes even more necessary that logic replace theory in the matter of busing.

It has long been my conviction that the schoolchildren have been used as political pawns in an arena of ridiculous experimentation. Unfortunately, when public policy has been considered, whether by HEW or the Congress, the feelings and wishes of the students are the last to be considered. Yet, they are the ones who are most directly affected.

In addition to this, no one yet has presented any proof that busing contributes to the quality of education, but there is a convincing amount of evidence that it has created untold confusion, disruption, and inconvenience for those who have been forced to accept its burden.

This amendment would simply place limitations on the allocation of petroleum products, consistent with our national supplies, and public policies of conservation. It seems to be a reasonable approach in the context of the times.

Mr. BINGHAM. Mr. Chairman, it seems strange to me that an amendment would be proposed for the purpose of cutting out an activity that a great many Members do not like but which the Supreme Court has held is necessary so that children can have an equal opportunity.

We allow oil to be allocated and it will be allocated for all kinds of recreational and nonessential purposes but here is an educational purpose and we say no oil for this purpose.

This is a discrimination against the poor children and it helps the rich children. Why? Because the rich children can be bused and they are bused into my district every day. They will continue to be bused and they will get the gas for that. But if a community has a program so that a poor child should be bused so he can get a better education—no gas for that. What kind of nonsense is this?

We have voluntary programs in our city where kids can go from a school they find is not sufficient to a better school a little farther away. That would be cut out by the amendment.

I find it unbelievable that with a bill which does not prohibit use of oil for recreational purposes and for going hunting in the gentleman's State and for all kinds of nonessential purposes, we are saying no oil can be used for kids to have a better education.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. Mizell).

Mr. MIZELL. Mr. Chairman, in the latest edition of U.S. News & World Report magazine there is a story on the effects of the energy emergency on the Nation's education systems, and the thrust of the article is well summarized in the opening paragraph, which reads:

Nowhere is the foreboding over fuel shortages sharper than among the people who run America's schools and colleges.

Already it is becoming clear that for most of the country's 60 million students and 3 million teachers, winter will be a season of disrupted education, discomforts and discontent.

Further on in the article, there is this passage:

Busing is being curtailed and in a few cases eliminated. Nobody seems to know whether there will be enough gasoline available to continue massive busing programs ordered by the courts to achieve racial integration.

Mr. Chairman, as my colleagues know, I have raised this point already several times in recent weeks, and I raise it again today.

In four school districts in North Carolina, more than 1 million gallons of gasoline are being wasted every year in order to comply with court-ordered massive forced busing programs.

Translated into national terms, the waste of precious petroleum resources is staggering indeed.

The cost of the policy of forced busing in terms of children's safety and in terms of the shortage of money available for legitimate educational needs has always been a source of great concern to me.

But now, in the midst of an energy emergency, the cost of this policy in terms of wasted energy is truly astounding and totally without warrant.

I urge my colleagues to join me in voting for passage of this amendment to rid the Nation's educational systems of this costly and needless burden, and plug a gaping hole in our Nation's energy reserve at the same time.

Ms. ABZUG. Mr. Chairman, of course, I am very ashamed to be in this Chamber today. It is interesting that an amendment is made which is totally irrelevant to the major national energy crisis that we are discussing. In explanation of the amendment, the mover indicated what percentage of gas is used for achieving racial balance—pursuant to the law of this land—and then we get a ruling that this matter has nothing to do with racial balance, and is germane.

Given other circumstances, I probably would have appealed the ruling of the Chair, and I think the time has come for us to begin doing things like that.

The big problem we confront here is the problem of a crisis in energy. I think our problem has been that we have not called upon the oil companies who have, indeed, benefited from the profits, to make the sacrifices. We are now looking to the children of our land to make the sacrifices. We are permitting the children to be utilized in scandalous demagoguery. I think this amendment impugns the motives of all of us who are Members of this body. We should not be subjected to this kind of amendment when we are dealing with a serious problem.

POINT OF ORDER

Mr. BAUMAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BAUMAN. Mr. Chairman, I make a point of order against the remarks of the gentlewoman in the well, that they violate the rules of the House and impugn the motives of the gentleman from Michigan.

The CHAIRMAN. Does the gentleman from Maryland ask that the words be taken down?

Mr. BAUMAN. Mr. Chairman, I demand that those words be taken down. If the gentlewoman is going to want to enforce the rules of the House, let us do just that.

Ms. ABZUG. Mr. Chairman, if I recall my remarks, if I may add, I said that the purposes of an amendment like this can only be demagogic or racist. I do not know that that in any way impugns the motives of the gentleman from Michigan.

Mr. BAUMAN. Mr. Chairman, I renew my demand.

Mr. DINGELL. Mr. Chairman, could I be heard.

The CHAIRMAN pro tempore (Mr. McFall). Will the gentleman from Maryland indicate the words objected to?

Mr. BAUMAN. I submit to the body that the use of the words "demagogic and racist" is impugning the motives of the gentleman from Michigan and it violates the rules of this House.

Mr. DINGELL. Mr. Chairman, could I be heard on the point of order?

The CHAIRMAN pro tempore. The Chair will state to the gentleman, there is no point of order. There is a demand that the words be taken down.

The Clerk will report the words objected to.

The Clerk read as follows:

Ms. ABZUG. An amendment like this can only be demagogic or racist because it is only demagoguery or racism which impels such an amendment like this.

Mr. DINGELL. Mr. Chairman, I rise with a unanimous-consent request.

The CHAIRMAN pro tempore. The Chair would say to the gentleman from Michigan that the business of the Committee is now suspended until the words are reported, so that the Chair cannot recognize the gentleman for a statement at this time.

Mr. DINGELL. Mr. Chairman, I rise then on a point of privilege.

The CHAIRMAN pro tempore. That is not entertained in the Committee on the Whole.

The Clerk will report the words objected to.

The Clerk read as follows:

Ms. ABZUG. An amendment like this can only be demagogic or racist because it is only demagoguery or racism which impels such an amendment like this.

The CHAIRMAN pro tempore. The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. McFall, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes, certain words used in debate were objected to and on request were taken down and read at the Clerk's desk, and he herewith reported the same to the House.

The SPEAKER. The Chairman of the Committee of the Whole House on the State of the Union reports that during the consideration of the bill H.R. 11450 certain words used in the debate were objected to and on request were taken down and read at the Clerk's desk and does now report the words objected to to the House.

The Clerk will report the words objected to in the Committee of the Whole House on the State of the Union.

The Clerk read as follows:

Ms. ABZUG. An amendment like this can only be demagogic or racist because it is only demagoguery or racism which impels such an amendment like this.

The SPEAKER. The Chair is prepared to rule.

On May 4, 1943, the first session of the 78th Congress, at pages 3915 and 3916 of the Congressional Record, Speaker Rayburn held:

Statement by Newsome of Minnesota that, "I do not yield to any more demagogues," held not in order.

It is the opinion of the Chair that the statements reported to the House are within the framework of this ruling, and without objection the words are therefore stricken from the record.

The Committee will resume its sitting.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11450, with Mr. McFall (Chairman pro tempore) in the chair.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. Young) for approximately 11¼ minutes.

Mr. YOUNG of Florida. Mr. Chairman, I yield back my time.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Indiana (Mr. Hillis) for 11¼ minutes.

Mr. HILLIS. Mr. Chairman, I rise today in support of the amendment to the Energy Emergency Act offered by my distinguished colleague from Michigan, John Dingell.

The Dingell amendment provides that there be no fuel allocation for the transportation of any school aged child beyond the public school nearest his place of residence given that school can adequately provide for the child's needs. In light of the critical energy situation now being faced by our Nation, I find this amendment both reasonable and necessary.

The amendment offered by Mr. Dingell would not be placed into effect until August 1974, therefore, the present school term would not be disrupted and each child affected forced to adjust to a new school and a new teacher in mid-term. Children living far from any public school as well as those children requiring special classes would receive transportation as fuel would be allocated for these purposes under the provisions of the amendment. Furthermore, it is estimated that by halting the busing of schoolchildren away from the nearest public school, our Nation would be saving literally millions of gallons of fuel per year.

Since the Dingell amendment would result in a sizable and necessary fuel savings and since this amendment would not disrupt the present school term thus harming our public school children, I strongly urge my colleagues in the House to support the amendment.

Mr. Chairman, I yield my time to the gentleman from California, Mr. Wiggins.

Mr. WIGGINS. Mr. Chairman, I rise in reluctant opposition to the amendment proposed by the gentleman from Michigan (Mr. Dingell). I would like to suggest that the very serious question of whether or not young children should be bused in order to implement guarantees of the 14th amendment is one which the Congress should address itself to, but that this is not the time and the bill before us is not the vehicle for doing so.

To me this is much like the Congress denying to the Supreme Court energy and power, because we are unhappy with its decisions.

Mr. Chairman, I am not a supporter of busing. I opposed the busing of children as an appropriate tool for implementing the 14th amendment.

Nevertheless, Mr. Chairman, I will say to the Members that this bill is not the vehicle for achieving a worthy end, and I earnestly request that my colleagues oppose the pending amendment.

Mr. ROUSSELOT. Mr. Chairman, I thank my colleague for yielding. I appreciate the very scholarly approach and the careful consideration which my colleague, the gentleman from California, takes on this subject.

However, is it not true that Federal funds are many times involved in the implementation of busing programs, and especially for school busing? This is a bill that relates to fuel, and I really cannot understand why we cannot address ourselves to that subject through this amendment.

Mr. WIGGINS. Clearly, we can, but I suggest that we should not at this time.

Mrs. GREEN of Oregon. Mr. Chairman, several months ago the people of my State were asked to take specific steps to conserve energy. By and large I think the American citizens will make the necessary sacrifices on an individual basis when facing any real national crisis. The majority, the big majority, will respond to a national crisis in a very commendable way if—and I put the emphasis on the word “if”—if they believe their sacrifices are borne in an equitable and in a fair way.

They may not like it, but in the national interest and in their own long-range self-interest, they will go without, if they see others, also, going without, and if they do not see unnecessary waste, by some, of scarce resources. As more and more families are living in cold rooms; as more and more cars are stalled because they have run out of gas; or as more cars cannot be used on Sundays for “unnecessary” driving; as more and more elderly citizens are forced to walk instead of ride; as more and more tractors and other farm machinery remain idle, then, Mr. Chairman, I suggest that people will believe their sacrifices are not fair nor necessary if scarce supplies of oil and gasoline are allocated for other purposes which are unnecessary.

I suggest that asking elementary and secondary school students to even walk to neighborhood schools would be far more reasonable than sacrifices demanded of others.

Mr. Chairman, we are all advised that walking and jogging are two of the best exercises possible for children or for adults.

One of my grandsons gets up early every morning to go jogging with his father. Then, 2 hours later, a bus comes by his house to transport him to his school so he will not have to walk.

What utter and absolute nonsense—and especially so at a time of a national energy crisis. Let us, at least, stop some of this nonsense by supporting the amendment offered by the gentleman from Michigan.

Mr. CONTE. Mr. Chairman, I rise in opposition of this amendment. **[Sec. 103.]** I am wary that this bill may be amended to death.

I hope that my colleagues do not get the impression, because of all the amendments being offered that this bill is so faulty that it should be recommitted. While this bill is not everything I had hoped for, our backs are against the wall, and it is important to get this bill to the White House before Christmas.

Like many of my colleagues, I share a distaste for expanding the powers of the Presidency. But it sickens me when it is necessary to expand the President's powers to cure a crisis when the crisis was brought about to a large extent by the very failure of the Chief Executive to act when he should have.

It is almost like rewarding another branch of government for incompetence.

Last year at this time, General Lincoln was in charge of our oil policy. How many successors has he had? Four? And how many times has our national oil policy been changed in the past year? Five?

No wonder we are in today's mess.

The fuel shortage today in New England is especially critical.

On Tuesday, the Members of the New England congressional caucus were briefed by the electric utilities of our region concerning the serious problems ahead. They told us that they have a 25-day supply of heavy residual fuel left. After this is gone, New England utilities will have a daily shortage of residual oil of 34 percent. This means electricity generation will have to be cut by one-third.

This means some hard choices for New England. It means stricter energy conservation programs. It means Government-mandated closings of schools, offices, and industries.

And it could mean the complete shutoff of electricity for several hours on a rotating basis. This is not scare talk; this is an objective appraisal of New England's fuel situation. Let me tell how the utilities would impose the program of "rotating blackouts." They would shut—

Off . . . power to all circuits that do not serve critical public facilities for periods of two hours (two hours off—two hours on), two days a week, for a total of sixteen hours of service interruption. If this does not equalize the supply and demand, rotation of the same circuits would be extended to four days, and then to six days. At that point, New England, in effect, would be almost completely shut down.

These utilities generate 70 percent of New England's electricity by burning residual oil. But half of their supply has been cut off by the Arab oil embargo.

Utilities are not the only essential consumers of fuel in New England. Ninety percent of our schools burn fuel oil and almost all of our industry. A large part of the Nation's paper, textile, plastics, and electronics industries are located in New England, and they are already suffering huge cutbacks in their fuel deliveries.

Even the company that makes the paper for the U.S. currency has had its fuel deliveries cut by 20 percent. That could mean a 20-percent cutback in production.

Meanwhile, the supply of gasoline in New England has become critical. There are several areas of New England where all the gas stations may be out of fuel between Christmas and New Year's.

For instance, in Berkshire County in western Massachusetts, there are 21 gas stations on the 20-mile stretch between North Adams and Pittsfield. Last year at this time there were 27 stations. All of the remaining stations are on allocation from their dealers, but the allocation schedules are a case study in bungling mismanagement by the major oil companies. Most of these stations will run out of gas for the month by December 21, and the last station expects to run out by Christmas Eve.

Christmas is a time for families to get together. But the major oil companies, by allocating gasoline so that dealers use up the entire supply by the middle of the month, and just before a peak holiday driving period, will be disrupting the plans of thousands of families in New England.

On top of all this, the administration announced yesterday that it was going to allow price increases of 8 or 9 cents a gallon for home heating oil.

This is unconscionable. How much more can be done to hurt the people of New England?

Last year at this time, home heating oil was 17 to 20 cents a gallon. Now it is 33 to 47 cents a gallon, and with this new price increase, consumers will be paying 41 to 56 cents a gallon.

Heating costs within a year will have tripled. It will cost the homeowner over a thousand dollars a year to keep his house heated—even at 68 degrees—in New England. A lot of people, especially the retired, those on public assistance, and those who make just enough to get by, are very worried about how they are going to survive.

If their electricity gets cut off periodically and they can not afford to heat their homes, I predict the hardy individuals of our New England country will march on Washington to demand action.

If they do not get the remedies they need, then I fear for the future of our form of government.

With that in mind, I urge my colleagues to do the best that they can with this bill and give the President these new powers he so unjustly deserves.

Mr. MILFORD. Mr. Chairman, we are here today to enact an emergency energy bill. We ask asking every American citizen to cut back at least 25 percent on his energy usage. The real energy shortage is still to come. At this time we are really only beginning to see the tip of the energy-shortage iceberg. Yet, hundreds of airline employees have already lost their jobs. Thousands of people in the petrochemical field are being laid off each day, hundreds of gasoline stations are closing, and so on.

Mr. Chairman, what I am trying to say is: "Every possible gallon of fuel must be conserved, otherwise, some will be going cold and many will be losing their jobs."

Regardless of what kind of a bill this House passes, we will have to have public acceptance before it will work. The vast majority of people in this Nation must agree with whatever action we take in this Congress.

Now, some will say that the amount of gasoline required to keep all schoolbuses in operation really is not very much—when compared to total usage.

Well, they may be right. But, try that argument on the pilots and air crews of our airlines who have just lost their jobs. Try that argument on the people in the Northeastern States as they sit in cold homes this winter. Just how convincing will that argument sound to blacks in South Dallas or whites in North Detroit—when they watch their children get on a bus—while at the same time they remain at home, because they have lost their job.

The forced busing of schoolchildren is one of the most emotionally charged issues of our time. The vast majority of the people of this Nation are strongly opposed to this practice. In my district—by actual referendum—the forced busing of children was voted down by almost 7 to 1, and that referendum was held over 2 years ago. Since then new court orders have been issued resulting in an increase in forced busing.

Recent polls now show that more than 88 percent of the people are firmly opposed to the forced busing of schoolchildren. In absorbing these figures. Please keep in mind that about 30 percent of the population is black.

Members who have not been faced with court-ordered forced busing right in their own district are not aware of the hardships created on the families involved. They are also not aware of the hard polarized emotional feelings that are brought on by this practice. Many are not aware of the real costs in money to the school districts, and the cost in fuel. For example, the Fort Worth School District has had to increase schoolbus routes by 42 percent solely to accommodate court-ordered busing. That means that fuel consumption has been increased by 42 percent. The Dallas Independent School District has experienced a similar increase in fuel consumption, because of court-ordered busing.

In other words, excess and nonessential busing of schoolchildren is requiring more gasoline while at the same time we are asking every American to use less.

Mr. Chairman, the Congress has expressed its will concerning forced busing. This body is clearly opposed to it. The American people have expressed their will. They are clearly against it.

Certainly, perhaps, a few lawyers and some social-planning bureaucrats are pleased that they have been able to bring on crosstown busing through the courts. But beyond those few, it is very difficult to find many Americans who really believe busing is the answer to any problem.

Well, my friends, it is time we put a stop to this practice. We can do it today with this amendment. Buses do not run without gasoline. This amendment denies no schoolchild an education. The fuel saved will help to heat a few more homes. It will help to save a few more jobs and it will make literally millions of people happier. It is now time for everyone to stand up and be counted. This amendment is pure and simple, with no "ifs," "and," or "buts." It says that no fuel will be allocated for the purpose of busing schoolchildren to any place other than their own neighborhood schools. I ask for your support of the Dingell amendment.

Mr. LENT. Mr. Chairman, I rise in support of the amendment of the gentleman from Michigan. It should be clear to us that during the current fuel shortage when people and hospitals and factories and farm operators are being asked to eliminate unnecessary lighting, to turn down their thermostats, and to generally do everything they can to conserve fuel, that we should attempt to have the Federal, State, and local governments set an example by limiting fuel use in every practicable way they can.

Certainly, Mr. Chairman, one of the most unnecessary and wasteful expenditures of fuel resources are the intricate, court-ordered busing plans which have been foisted upon local school districts, largely against their own wishes.

Many school districts are now finding it extremely difficult to even obtain bidders to supply their increased gasoline needs. Further, even if they have found a supplier which can meet their bloated gallonage requirements, it is only at substantially higher prices. They are being pressed to the financial brink by increased fuel costs, yet many are

cast into the perplexing position of having to defy a Federal court order should they not be able to obtain gasoline.

It seems ludicrous that when there is serious talk in many areas of the Nation of closing down schools because there will not be enough heating oil, that we should continue to waste enormous amounts of gasoline in order to send schoolchildren hither and yon, in the nebulous name of racial balance. Certainly, Mr. Chairman, a continuing education is far more important than an interrupted one in a school away from a student's neighborhood, and I am hopeful that we will have the good sense to adopt this amendment.

Mr. McKINNEY. Mr. Chairman, I am deeply troubled by the continuing desire of the House to handle vital national questions through back door amendments. This bill is a vital bill on energy. The question of schoolbusing disturbs our entire Nation. The vital question of energy policy should not be endangered by this issue.

Far more important, however, the House, if busing is such an important issue to America, should face the issue, as the issue and not shirk it in the name of energy conservation.

At this time in our history, the people of this country are looking more than ever at the Congress for leadership.

We owe them that. We need to stop our continual abdication of responsibility on the issues in front of the Nation.

I hope that the amendment will fail. It simply and purely has no place on this legislation.

I fervently pray that Congress will prove itself and assert itself on the issues of the Nation. We have no one to blame but ourselves for our failure and for our voting in the eyes of the people.

We abdicate power: Gulf of Tonkin, phase IV, the energy bill, more importantly we abdicate by inaction on the important issues of the day. We must to survive as a Nation face these problems and answer them, not avoid them.

Mr. ECKHARDT. Mr. Chairman, I oppose the amendment for very specific reasons. This amendment would prohibit any busing to a school within an attendance district farther than the closest school. In the Goose Creek school district in my district the only way the Harlem School is permitted to continue to exist as a neighborhood school is by a majority-minority transfer, voluntarily, of black students away from the Harlem school and of white students to the Harlem school. If you deny gasoline for that purpose, it means that the school district cannot continue this program and cannot maintain Harlem school as a neighborhood school.

Mr. FREY. Mr. Chairman, first let me say that it is pretty obvious that this issue does to a certain extent go outside the direct question of energy. But, quite frankly, this bill takes in many subjects that are outside the limited approach that I would like to have seen come out of the committee.

If we are going to broaden the purpose of this bill it seems to me that this is one of the areas we should address.

We have a tremendous problem with busing, the cost of it, and the use of gasoline to accomplish the purpose. In this way we can express our feelings on this issue and our opposition to the cost and principle of needless busing. I hope the amendment carries.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Archer).

Mr. ARCHER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan (Mr. Dingell).

Mr. Chairman, I rise to support the amendment offered by the gentleman from Michigan (Mr. Dingell) and to associate my remarks with those of the gentlelady from Oregon (Mrs. Green). She has ably pointed out that the American people will gladly make sacrifices in their personal lives if they have evidence that all segments of our country are equally exercising the restraint necessary to meet our current energy condition.

It is surely difficult to establish a cooperative spirit among our citizens when people see that our precious fuels are being used for controversial purposes such as the busing of our schoolchildren. Indeed, I have received several letters from constituents asking why they should take steps to conserve fuel when they see around them what they have called "overwhelming conspicuous consumption" by others, including the Federal Government. Mr. Chairman, I tell my constituents that Federal officials are doing their part to save fuel, that Cabinet members have relinquished their limousines, that the lights are darkened around our national monuments, that thermostats are lowered in Federal buildings.

Mr. Chairman, I regret to say that these steps are not sufficient. They are commendable, to be sure, but it will take more constructive action if we are to unite the Nation into a conservation outlook.

The busing of schoolchildren has seemed to raise more problems than it has solved. First, we have bused our children away from the virtues of physical fitness. There is much to be said for encouraging children to walk or ride their bicycles to school when it is safe for them to do so. Further, aside from the Constitutional conflict busing imposes by judging people by condition of race, busing has not even proven to be effective in upgrading the standards of education. Indeed, in this morning's Washington Post we have an article entitled "Student Testing Stirs Debate." One of the theories discussed in this article states that "even if education could be reformed so that all schools were equal inequality between children would remain. The most important element in determining children's capabilities when they leave school—is the capabilities they bring to school with them."

We have an opportunity today to give impetus to a national conservation program. When people begin to see the Federal Government taking strong steps in many areas to conserve fuel, then they will assume responsibility in their private lives.

I urge my colleagues to set a strong example for the rest of the country by stopping busing in a serious effort to conserve fuel. When parents take meaningful measures to conserve energy at home, their children will have before them the example of a country striving in unity to overcome a complicated problem. For what better home environment could we ask?

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the amendment and commend the gentleman from Michigan (Mr. Dingell) for offering it. I had fully intended to offer a similar amendment myself.

I feel that one of the most obvious places we can look to save fuel during the energy crisis is in the unnecessary forced busing of public

schoolchildren for other than educational reasons. This practice has grown to such mammoth proportions that we are literally wasting millions of gallons of gasoline each year that we continue it.

I do not want to hold out false hopes for the people of my State or the people of Mr. Dingell's home State of Michigan that if this amendment is adopted and contained in the final version of the bill it will mean an absolute end to the forced busing presently mandated by the courts. There would probably still be legal questions to be settled and there is always the possibility that the courts could rule that busing must continue regardless of the need to conserve fuel.

Mr. Chairman, if I understand this amendment correctly, it would place a limitation on busing insofar as possible. Of course, there will continue to be cases where the use of schoolbuses will be necessary in rural areas. The intent of this proposal would be to do away with busing in cases where students are transported back and forth across town and county past their neighborhood schools just to satisfy an arbitrary quota set by some Federal judge.

One important point the Supreme Court has always overlooked in handing down their busing decisions is that forcing a child to go to a school other than the one of his choice or his neighborhood school is denying this child his rights under the equal protection clause of the 14th amendment. This point was made quite forcefully by constitutional experts in Senate debate recently.

The need to place limitations on forced busing has become even more acute in light of the fuel shortages. This is just further evidence that this unreasonable practice must be brought to a halt. Not only would the adoption and implementation of this amendment save needed gasoline, it would also result in a financial savings for our local school districts. Money now being spent on unnecessary buses, maintenance, and fuel could be put to better use buying needed educational materials.

Mr. Chairman, I urge adoption of the Dingell amendment.

Mr. MIZELL. Mr. Chairman, a few moments ago someone said we were trying to deny gasoline to a poor child getting an education. I would like to refer my colleagues to an article that appeared in the New York Times of January 7, 1973, and it refers to the report of a special legislative commission established by the New York State Legislature and it is as follows:

BUSING IS DEEMED FAILURE

NEW YORK.—A special state legislative commission has concluded that "compulsory busing alone is failing as a means of integration" and that "that failure has resulted in a major cause of academic unrest."

The temporary Commission to Study the Causes of Educational Unrest has recommended that to minimize strife, busing for racial balance in New York State must be accompanied by great efforts to change community attitudes.

"Where we found unresolved divergent attitudes," the eight-member commission wrote in its report, released last week, "we found discord, friction, polarization and eventual unrest."

Formed in 1969 by the governor and the legislature in the wake of college campus disturbance, the commission had its charge expanded in 1971 to include secondary schools, which the commission says have now replaced the campuses as the sites of unrest.

In addition to the busing issue, the commission says that much of the unrest in secondary schools is related to its finding that "statewide 50 per cent of the

students will either drop out physically or remain in school as a mental dropout."

Such students are inadequately served by existing curriculums, the commission maintains, and they are prime candidates to become involved in gangs, drugs, robberies and other antisocial behavior.

Twenty-four of the report's 194 pages are devoted to the busing issue because of the commission's belief that it now generates more educational unrest than any other factor.

"It is not the numbers of children affected," the report asserts in connection with busing, "but the emotions and fears and concerns, justifiable or not, which have really led to the prominence of the issue in our present daily life.

"The result is that this school-oriented issue has assumed a social and political significance without direct relation to the numbers immediately involved."

Three steps are proposed by the commission as a means "to foster a positive concept of integration."

The first is the involvement in the planning process of all community groups, the second is the development of a strategy for building support and meeting opposition, and the third is the acceptance of the idea that integration should be started at the lowest grades and that it cannot "be accomplished all in one gulp."

"If the youngsters did not have to mix each day, all day, in a highly structured educational experience," the report says, "but rather if they had to mix only part of the week and at an unstructured level, such as play, shop, music . . . a more harmonious atmosphere and understanding of each other would result."

Mr. MIZELL. All I am saying, Mr. Chairman, is that this report clearly shows, that cross busing is not making any contribution to the education of poor children. Busing for a racial balance is a failure.

Mr. HUDNUT. Mr. Chairman, I rise in support of this amendment, the purpose of which is to provide basically that no petroleum products will be allocated for transportation of schoolchildren to any school other than the one nearest to their home where appropriate courses of instruction are being offered. The basic purpose of the amendment is to conserve fuel without at the same time denying any child his basic right to an education.

Mr. Chairman, I believe that the overwhelming majority of the American people support the concept of quality education in neighborhood schools. In this amendment, we are given an opportunity in the Congress not only to take an important step toward fuel economy, but also to reinforce our commitment to neighborhood school systems.

And the fact of the matter is, if children were transported to the schools nearest and most reasonably available to them, rather than across school district lines or across town, considerable savings of fuel would be affected. In my own city of Indianapolis, it is estimated by the city school system that during the course of a school year, if this amendment were in effect, 99,680 gallons of gasoline could be saved—because during the 178 school days in the school year, an average of 560 gallons of fuel are consumed each day to transport children to schools other than the closest available.

Furthermore, many of the public buses that run on diesel fuel are utilized in the transportation of schoolchildren, running an estimated addition 1,500 miles a day to transport children to schools beyond the closest available. Computed on the basis of a school year, it is estimated that 66,750 gallons of diesel fuel would be saved by the public buses involved in transporting schoolchildren each school year in Indianapolis if they were not required to transport children across school district lines and across town.

In one of the township school systems immediately adjacent to the city of Indianapolis, the superintendent of schools estimates that an

additional 7,000 gallons of gasoline a year are used to transport students to public schools facilities of a greater distance than the closest available. Sometimes, he notes, for a variety of reasons—special education being required for the trainable retarded, for example; overcrowded facilities necessitating some degree of flexibility of pupil assignment; interests of safety requiring that youngsters not be transported across high-traffic thoroughfares; and so on—children are not transported to the nearest school—and these seem like reasonable requirements. Nonetheless, it is still demonstrably evident that a fuel economy of 7,000 gallons per year could be effected in this township by a curtailment on the number of miles schoolbuses travel each day in order to transport students.

To take an example from another State, there are 151 school administrative units in North Carolina and in four of them, the consumption of gasoline by the public schoolbuses increased by 218 percent when transportation to schools other than the nearest available was required; and this represented a virtual waste of 1,118,908 gallons of gasoline in 1 year for these four school districts.

Mr. Chairman, if you multiple these examples by school districts all around the United States where students are being transported across school district lines and across town and across the county, the amount of fuel that could be saved by allocating gasoline and diesel fuel on the supposition that students will be bused to the closest available school, is literally astronomical. And in light of the energy crisis, it would seem most reasonable to support such an effort.

Of course, Mr. Chairman, what we are talking about here is the forced busing of schoolchildren to achieve racial balance as ordered by the courts. Many citizens have spoken to me about this, many constituents of mine, and the burden of their argument is that they cannot understand why we fail to make a correlation between the energy crisis and the court-ordered busing of schoolchildren to achieve racial balance which they regard as nonessential and undesirable. The busing seems to entail an enormous waste of gasoline at a time when we can ill-afford it. There are many reasons why 85 to 95 percent of the American people are against busing, and this is only one of them—busing strikes them as being “a needless and irrational aggravation of the energy crisis,” to quote one of them, “since millions of gallons of gasoline are being consumed around the Nation carting schoolchildren for dozens of miles to fulfill the social engineering conceptions of liberal bureaucrats and jurists.” The reason strikes me as compelling; and I hope my colleagues in the House will give it serious consideration and support this amendment.

Mr. BAFALIS. Mr. Chairman, the energy crisis facing our Nation today has become the issue of utmost concern to Americans everywhere. Headlines and news stories are making dire predictions of the negative impact this crisis is going to have on our life styles and our economy. Certainly in view of the fuel shortages we will be encountering, every effort should be made to cut back on unnecessary usage of gasoline. This only makes good sense.

In this regard, I feel Mr. Dingell's amendment regarding the forced busing of our schoolchildren is particularly relevant. A prohibition of any further busing for the purpose of achieving racial balance in our

classrooms would save untold amounts of fuel that could be put to a far more beneficial use in heating homes across the country or preventing cutbacks in American industry which could result in high unemployment rates.

I have long been opposed to this forced busing. In fact, I have even introduced a constitutional amendment to prohibit such foolishness. Busing made no sense when the gas tanks were full—and it makes even less sense now when every gallon of gas wasted can mean a cold home or another worker laid off.

There are those who will condemn this amendment as antiminority, but it is not. Rather, it is pro-American. This amendment offers us a way to save our precious fuel supplies and unlike the proposals for arbitrarily high gasoline taxes or emergency rationing, it is a step supported by the overwhelming majority of the American people.

I urge my colleagues to support the adoption of this extremely logical and much-needed amendment offered by the gentleman from Michigan.

Mr. FINDLEY. Mr. Chairman, I oppose this amendment as an unwise interference in the administration of public schools. I do so for several reasons.

First, it ill serves the long-term commendable good of the racial integration of public schools.

Second, it could prevent many students from taking part in worthwhile activities which may not be available at schools nearest their home.

I have in mind a district in which two high schools very unequal in size and programs are located. A student interested in drama or music would be prohibited by this amendment from using school buses to attend a more distant school where such activities occur. As a Republican, I hope the party will help substantially in rejecting this amendment.

Mr. BRINKLEY. Mr. Chairman, in support of the amendment offered by the gentleman from Michigan, I wish to cite figures from the Muscogee County school system, Columbus, Ga., which compares the enrollment, average daily attendance, and total schoolbus mileage for the 1970-73 school terms:

School year	Enrollment	Average daily attendance	Total yearly mileage
1970-71.....	43, 459	35, 946	544, 230. 8
1971-72.....	42, 079	34, 340	755, 766. 0
1972-73.....	40, 276	32, 832	741, 762. 0

As you will note from the above statistics, there has been an actual reduction in the number of enrolled students as contrasted with a dramatic increase in the schoolbus mileage required for intracity transportation.

Mr. Chairman, this amendment is very valid for two reasons. It would dramatically reduce gasoline requirements. The savings could be applied to quality instruction—remedial reading, smaller classes, personal instruction. These things are important, too.

Mr. DELLUMS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I came here 3 years ago with an extraordinary sense of idealism. I now find myself with a feeling of desperation, anguish, and cynicism. Today is another serious blow to my idealism. At a moment of great crisis in this Nation we find ourselves reacting, and not acting, following and not leading, often guided by expediency and not with principle. We in this body, it seems to me, must always do what is proper, what is right, and what is principled, and not what is demagogic, racist, and expedient. All of us who will vote for this amendment will probably receive reelection as a result of this absurdity and will come back in the 94th Congress to justify more expediency, and more game-playing.

I am not shocked, Mr. Chairman, and members of the committee, I am frankly ashamed of this body for what I know it is about to do.

Mr. COLLINS of Texas. Mr. Chairman, I want to congratulate my distinguished colleague, the gentleman from Michigan (Mr. Dingell) on his excellent amendment, and rise in support of it.

I would call on the support of all of the liberal Members of this Congress in support of this amendment, and I base this on an excellent factual story from the Washington Post, which is regarded as a final authority by so many liberals. I quote from the Post's morning news, which deals with the subject of the education of children, and it says:

The number of books in the home, was more closely related to educational achievement than what happens in school.

That finding closely parallels a major report on race and education in the United States done by Coleman himself for the U.S. Office of Education in 1966.

The central thrust in the Coleman Report is that home is more important than school in affecting children's ability to read.

Mr. HUBER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan. It is something I have long fought for, and I am pleased to find that it has bipartisan support. The day after the President's energy message, I addressed this body on this very topic. At that time, November 8, 1973, I suggested that the Congress and the President explore the avenues for suspending existing and pending court action that provides for the forced busing of schoolchildren. This would save no small amount of precious gasoline.

Let me cite just two or three examples as to how much fuel would be saved by this action. In the city of Richmond, Va., some 530,000 gallons of extra gasoline is burned per year to force bus students to schools. In Prince Georges County, Md., it has cost taxpayers some additional \$1.2 million since January 29, 1973, for extra buses and drivers as well as 750,000 extra gallons of gasoline per year.

The issue here is fuel conservation. So, let me just give one more example of fuel wasted for forced busing. In my own State of Michigan, the Pontiac School District has been under court-ordered busing since the school year of 1971-72. In the school year before the implementation of court-ordered busing, the Pontiac schools used 125,199 gallons of gasoline for schoolbuses. The first year busing occurred, the schools used 257,935 gallons—an increase of 132,736 gallons strictly for the purpose of forcing people to go to schools they would probably not otherwise choose.

In fact, a recent Gallup poll showed that 95 percent of the American people, black and white alike, are opposed to forced busing. Since the people are opposed to it, and since the President has urged us to devise methods by which to conserve fuel, I can think of no better solution than to pass this amendment. It would be a wise move on the part of the House for not only would it be a popular proposal with the people, but it would also help us to conserve our fuel supplies. More important than to pass this amendment. It would be a wise move on the part of adoption of Mr. Dingell's amendment.

Mr. KETCHUM. Mr. Chairman, I think the fact that this amendment has been offered gives reason for everyone here to halt for just a moment or two and realize what a bad bill we are voting on, what a bad bill we are considering. The fact that all of these amendments have to be hung onto this terrible bill indicate to me that none of us know what is in it, and I certainly include myself in that group.

This bill could have been written in a three-page bill. Every single item could have returned to this Congress for a vote. If we are concerned about busing, that could have been included in the energy conservation plan, and we could have voted for it. I just use this time to urge this body to carefully consider this bill, because if we pass it, it is really going to be America's Christmas turkey.

Mr. BAUMAN. Mr. Chairman, with relation to the previous brief unpleasant episode in the House between the gentlelady from New York and myself. I should like to say that I do believe that each of our colleagues can and should be granted the assumption of proper motives for offering amendments in this House. I also believe that debate can be conducted on a civilized level, at least by most Members.

The Chair has shown the way in his rulings and his conduct last night and today, setting an example of orderly procedure. I think when the day does come that we do not grant to our fellow Members the assumption of proper motive, then the democratic system as we know it is in some danger. I would hope that whatever happens between now and 2 a.m. or noon tomorrow, or whenever we conclude the conduct of this difficult debate, we will keep our discussion on the same high level that the gentlewoman from New York and all Members should always display in this body.

Now Mr. Chairman, I would like to address myself to the amendment of the gentleman from Michigan (Mr. Dingell), which I support completely.

Busing schoolchildren simply to achieve racial balance is absurd at any time, and it is especially ludicrous to require such busing at a time when the gasoline which is being wasted in pursuit of numerical racial balance is desperately needed elsewhere.

In Wicomico County, on Maryland's Eastern Shore, we have had much the same experience as hundreds of other counties and municipalities around the country. Under threat of removal of all Federal funds to the county school, the Department of Health, Education, and Welfare has come in and ordered that elementary school children in that area be bused to achieve racial balance, in a number of cases involving trips of many miles for 5- and 6-year-old children. Parents with regard to race have opposed this disruptive scheme. I want to do whatever I can to prevent incidents of this sort from taking place, and this amendment will have that effect.

This body has voted many times to approve measures which would curtail or halt forced busing. I trust that we will do so again today, and I hope that this time we will succeed in actually bringing an end to the practice. Taking such a step is fully justifiable in the all-out effort to conserve the Nation's energy supplies, as well as making good commonsense where the welfare of our Nation's children is concerned.

Mr. FRASER. Mr. Chairman, I should like to ask the gentleman from Michigan a question. I represent a district which is under court order with respect to segregated schools. The school system has submitted a plan to the court that involves the movement of pupils within the district in excess of what is provided for in the gentleman's amendment. Is it the gentleman's intention that notwithstanding the existence of a court order, a school district will not be permitted to use petroleum under an allocation plan to move students in accordance with a court order?

Mr. DINGELL. Yes; the amendment says nothing about court orders. The amendment says in effect that no fuel may be allocated for purposes of transporting a child past the school nearest to his home.

Mr. FRASER. Supposing the school district is under court order, under the gentleman's amendment will they get the petroleum?

Mr. DINGELL. The answer to the gentleman's question is, they cannot allocate fuel for that purpose. This amendment does not consider whether or not the school district is under court order to transport students to achieve racial balance.

Mr. MARTIN of North Carolina. Mr. Chairman, I support the amendment offered by the gentlemen from Michigan. The busing decisions of the Supreme Court are well known to me, since I was serving as chairman of the Mecklenburg, N.C., Board of County Commissioners at the time of the innovative consideration by the Court of the pupil assignments of the Charlotte-Mecklenburg school system. We have lived with it longer than anyone else.

We are going to be short of fuel supplies for schools. If we permit gasoline allocation to transport students back and forth great distances across the county there may not be enough to meet the more necessary task of transporting our rural students to even the nearest school or to meet other necessary purposes.

The purpose of this bill is to conserve nonessential uses of scarce fuel supplies. The purpose of this amendment is to do the same. It will be difficult for my people to understand if we do not adopt it.

Mr. COLLINS of Texas. Mr. Chairman, I continue the reading from today's Washington Post:

Children from middle-class and upper-class backgrounds read better than children from lower-class backgrounds, and this fact was not changed by racial integration or increased spending.

The Coleman findings have since been reaffirmed in a re-analysis by two Harvard Graduate School professors, Frederick Mosteler and Daniel P. Moynihan. . . .

Mr. Chairman, this points out very clearly that this is not an educational amendment in any form. This is a transportation amendment that has to do with saving gasoline.

Mr. CONYERS. Mr. Chairman. I ask the gentleman from Michigan (Mr. Dingell) if his amendment is not racistly motivated, then what is the motivation for it? And if it is not demagogically inspired, why does it not apply to private schools as well as public schools?

Mr. DINGELL. The amendment is not demagogically inspired at all. In my district we hold integrated rallies to protest busing. My constituents, black and white, oppose forced busing to achieve racial balance. The amendment really is to make sure we have available adequate petroleum supplies necessary for transportation of our students and to make sure that scarce gasoline supplies are not wasted.

Mr. CONYERS. Why does it not apply to the schools the gentleman's children go to? Why are not private schools included in this ban on the use of gas?

Mr. DINGELL. Because private schools are schools which are selected by the parents and the children. And my children. I advise the gentleman, go to integrated schools and public schools.

Mr. CONYERS. And so they should use as much gas as they need to get to school?

Mr. BAKER. Mr. Chairman, the subject of court-ordered busing of our children is one which concerns parents all over this Nation. It is of particular concern to those who live in the Chattanooga area and to me. We have perhaps the finest board of education in the country, composed of both minority and majority members. They have worked diligently over a period of years to satisfy the courts without doing damage to the cause of providing the best possible education for our children.

We have just been handed a decision by the courts which means busing of additional children and the use of 5,000 additional gallons of gasoline each month. Meanwhile, evidence is piling up that not only is court-ordered busing looked upon with disfavor by parents of both races, who prefer to have their children within walking distance while attending schools, but that this great inconvenience of long distance busing has not produced the desired results. I quote from a recent column by Kevin Phillips:

In fact, most cities reported that the achievement gap—between black and white—had gotten even larger after busing.

Now we are faced with a crisis in the area of motor fuel as well as other energy sources. It seems reasonable to me that we abandon this nonproductive abuse of our children and allow them to return to the healthful practice of walking to school, if they wish. We could do so by taking action on the amendment being proposed by my colleague, Congressman Dingell. This action becomes more urgent daily in the light of the worsening fuel crisis. I hope we will meet our responsibility as a representative of the people we represent and stop the forced busing of our children.

Mr. KOCH. Mr. Chairman, I am for integration and I am for using buses to accomplish it, but that is not what I want to discuss with the Members.

We are in an emergency and if we are going to deal with that emergency we are going to have to have the cooperation of all the people in this country—conservatives and liberals, Republicans and Democrats, blacks and whites.

If this amendment is carried, I know I am going to vote against this bill and I know there will be millions of people who will not carry out the provisions of this bill because they will feel we have used the bill, through this amendment, to discriminate.

This is a bad amendment. It will hurt this country immeasurably if we pass it.

Mrs. HOLT. Mr. Chairman, I rise in support of Mr. Dingell's amendment [Sec. 103] which would permit fuel allocation for the transportation of public school students only to a school nearest their home. Every program adopted by this body today should be directed toward specific measures for fuel conservation, and I believe Mr. Dingell's amendment would reflect the goal of minimizing the distance students are transported.

Is it more important to bus children ridiculous distances to schools which have to close early because they have run out of sufficient heat or light? Or can we keep our schools open and let the children walk, or be transported the shortest possible distance? There appears to be a thread of insanity running through the logic which keeps these unnecessary and undesirable busing plans in operation, but closes the doors of the school itself.

Our school system is a vital public service. Our neighborhood school was effective and promoted effective, quality education. We have been given the opportunity today to stop unnecessary fuel consumption by ending this massive busing of children miles from their homes. The money saved by the reduction in the use of the buses could go toward reinforcing the quality of education for all our schools. We have failed in the past to make all schools good schools but replacing that mistake with another mistake is not right.

In Prince Georges County in my district, we are wasting 750,000 gallons of gasoline a year. We are forced to countenance an additional $3\frac{1}{2}$ million miles which our schoolbuses must travel. This amendment proposes sane energy measures which would contribute to a 25-percent saving on gasoline consumption in the schoolbus program. In this emergency, adjustments must be made to accommodate those services which are most essential, and which require the least fuel consumption. We simply do not have the fuel to transport pupils unnecessarily.

The House has considered many worthwhile suggestions in order to implement conservation of energy. It is my belief that this amendment would demonstrate an effective method of conservation and would be soundly supported by parents who face the unpleasant prospect of curtailed or discontinued classes for their children because their school has neither sufficient heat nor electricity to permit regular school hours. How can we ask the American people to respond to the energy crisis in a responsible manner if we are unwilling to take every means at our disposal to reinforce these conservation measures.

Mr. Chairman, I urge my colleagues to join me in supporting this important step toward conservation of fuel that is provided for in the Dingell amendment.

Mr. ROY. Mr. Chairman, I would like to address a question to my distinguished colleague from Michigan. In our State we have a number of county high schools. We also have separate school districts in smaller towns within these counties that have their own high schools. As a result of this, a number of buses will go right by the high school in the smaller town in order to reach the county high school.

My question is, Will these buses be allocated fuel under the priority for education or would they be denied under the amendment of the gentleman?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, the answer would be that under the last section where the schools are within the same school district, there can be no allocation of fuel past the school nearest the residence of the student. If the schools are in separate school districts, because of ancient practice or the State defining the boundaries, there would be allocation of fuel within the amendment to drive the students to the nearest school to his home.

Mr. HOGAN. Mr. Chairman, I rise in support of the Dingell amendment. A year ago my county was forced to engage in massive busing to achieve racial balance in its schools. Since that time its fuel use for schoolbuses has increased 40 percent, and the school system now has a fleet of over 800 buses, larger than the fleet of any commercial bus system in the Metropolitan Washington area. If this amendment carries, we will save in Prince George County alone over 700,000 gallons of fuel per year. On that basis, the amendment should be supported.

Mr. Chairman, Prince Georges County schools on January 27, 1973, as the result of a court order became the object of the largest racially balanced busing in the history of our country. The area involved is eight times that of the District of Columbia, six times that of the city of Baltimore. From one end of Prince Georges County to the other is greater than the distance from Arlington, south of the District, to Towson, north of Baltimore. Racial balanced busing in an area so great requires a busing fleet of over 800 vehicles. This is probably one of the larger schoolbus fleets in the Nation.

As I said, when racial balanced busing was ordered the gasoline consumption of Prince Georges County schoolbuses increased 40 percent. This included gasoline for the additional vehicles. It included far more miles for the various buses to travel. It included earlier and later hours of school. Schools now start as early as 7:30 a.m., finish as late as 4:30 p.m. Students must be at bus stops even earlier to take the longer trips.

Schoolbuses with the many stops and starts are greater gas guzzlers than the 8-mile-per-gallon limousines. I am told that 5 to 5½ miles on a gallon of gasoline is the normal performance of schoolbuses. I am told, also, that before racial-balanced busing, consumption was about 1.6 million gallons per year. The 40-percent increase brings that amount in excess of 700,000 gallons a year of gasoline.

I am a great supporter of education. In view of the crisis we are now facing, it makes little sense to curtail the school year or the school hours when we consume tank loads of gasoline transporting the students longer distances than are necessary. Neighborhood schools are favored by all but a small number of parents. It is inconceivable for us to not, at this time, curtail all unnecessary schoolbusing.

The recent headlines in newspapers indicate 950,000 air flights have been canceled. Yet, we consider air transportation an essential industry. Why should not schoolbusing make its contribution to the saving of energy?

In Prince Georges County, the schoolbusing fleet is 7 or 8 times larger than the commercial busing fleet. Yet public commercial busing

is essentially the moving of people from homes to jobs, usually across the District-Maryland line. Of the 154,000 schoolchildren in Prince Georges County schools, 90,000 are bused. I do not know how many drive their own cars, but residents in the vicinity of high schools complain of congested parking by students.

In a very comprehensive federally funded transportation study in my district, it was learned that the University of Maryland is the single largest generator of traffic. It is noted that nonrelated work travel is increasing faster than work travel. While carpooling for workers is a very worthwhile device for saving fuel, we certainly must not overlook the even greater possibilities of saving fuel in the non-work areas. Saving fuel by eliminating all unnecessary schoolbusing and encouraging students at all levels to walk or ride bicycles where feasible, are indeed appropriate steps in a series of energy-saving proposals.

Not only is there great saving in fuel, but I am sure that most parents will be pleased. The neighborhood school concept promotes greater use of schools for extra-curricular affairs. It makes travel simpler and that way saves even more gasoline.

In short, restriction of schoolbusing is a necessary, convenient, and economical way of conserving gasoline.

Mr. BADILLO. Mr. Chairman, I rise in opposition to this amendment. I am appalled it should come up and I am appalled to see so many Members supporting it. If, in fact, the amendment carries, it seems to me that this bill should be voted down and a totally different bill written, because if the energy crisis is so serious that we are willing to suspend the Constitution of the United States to meet it, then we should be willing to institute a fuel rationing program, order the suspension of all recreational activities that eat up our dwindling fuel reserves, and otherwise move firmly and decisively to meet the energy crisis.

I think it is unfortunate that an energy crisis that could have brought all the people of the country together in common effort is being used to exacerbate the racial tensions that exist in this country.

I urge that this amendment be voted down, and should it be a part of the bill presented to us on final passage, I will vote against the bill, although I may fully support many of its legitimate provisions.

Mr. RANDALL. Mr. Chairman, I rise in support of the busing amendment [Sec. 103] of the gentleman from Michigan (Mr. Dingell). Please note this comes from a Member of Congress from Michigan not someone from the South. The author stated this will result in a conservation of gasoline. The only ones who make it a racial issue are those who prefer to consider the amendment racial.

The fact that the point of order raised by the gentleman from Washington was overruled should be the best argument that this amendment is germane to the conservation of fuel.

A moment ago some colleague made reference to the U.S. News & World Report. I have in my hand a copy of the December 17 issue. One statement in that article asks "Why are we worrying about heating oil if we cannot get the children to school?"

I would like to ask the gentleman from Michigan, recalling that the gentleman from Kansas (Mr. Roy) mentioned the big consolidated

districts, two or three in a county. If I remember right, the amendment only limits busing within the school district and would not affect the sparsely populated areas where because of consolidation the school of attendance might not be nearest to the home of the pupil.

Mr. DINGELL. To give the gentleman a short answer, the amendment would not deny allocation for travel to a consolidated school where the transportation of students is to the nearest school offering instruction of the grade level and curriculum of the student involved.

Mr. HAWKINS. Mr. Chairman, the amendment violates constitutional rights. I think there is no doubt about that, but there is also a practical problem.

The amendment will increase fuel consumption and close schools, for if the nearest school violates the Constitution, it must be closed. Therefore, the children who had been at that school will be bused to a school which is farther away.

The amendment also diverts attention from the main causes of fuel shortages, including the automobile manufacturers in the State from which the mover of this motion comes. It defames a national energy policy based on justice, and should be rejected.

Mr. ADAMS. Mr. Chairman, I had previously indicated why I do not think that this type of amendment should be in an energy bill. We should not do in the name of energy what we have not done through our other appropriate committees.

Mr. Chairman, I have a question for the gentleman from Michigan. We have one school district for the entire city of Seattle. There is busing of various kinds within that district. Is it the intent of the gentleman's amendment that they can continue to bus within the district as ordered by the school board if it is within the school board's jurisdiction, because the gentleman has on page 1 that it is, as long as it is within the school district, but on page 2 you say that they must be within neighborhood school attendance areas; yet, in paragraph 2 on page 2, you say that as long as it is within the school attendance district, it is all right.

Our school board has ordered varying types of busing within this total district of the city of Seattle as they have indicated or found necessary to carry out their educational policies. Will they or will they not get the fuel?

Mr. DINGELL. Under the amendment allocation of fuel for transportation of public school students is allowed when the transportation is within the school district and within the school attendance district of the public school student. Where it is necessary to relieve overcrowding or where it is necessary to take care of special educational problems such as the blind, the crippled, the retarded and that sort of thing, there is a special exception allowing allocation for further transportation.

Mr. ADAMS. Mr. Chairman, who will decide where the busing is going to come or go, the school district superintendent, the administrator under this act, or the school board, which is trying to set up a system of busing.

Mr. DINGELL. The President or his delegate will do so as required in the bill.

Mr. SATTERFIELD. Mr. Chairman, I think it ought to be made perfectly clear there is nothing in this amendment that is going to pre-

vent any child from getting a public education or prevent any child from getting transportation to receive that education. This amendment really does not deal with the question of racial mix which has been mentioned during this debate. It merely deals with allocation and rights to allocation of a short supply of fuel.

In the days ahead, the crises ahead, we are going to see some businesses close and we are going to see others partially shut down. What is attempted by this amendment is to reduce the impact of the short supply of fuel by removing nonessential transportation of public school pupils.

I would like to point out that the gentleman from Michigan (Mr. Dingell), the author of this amendment, has very carefully drafted it so as to make it abundantly clear that any changes in school assignments which might be required by this amendment will come during the summer when schools are in recess so that those now enrolled will not have their classes interrupted during the present school term. The effective date of the amendment is August 1, 1974.

I wish to touch upon one other point. Much was made in the well a few minutes ago about the Supreme Court decisions requiring the busing of pupils. As I read the Supreme Court decisions, the Court did not say that busing of pupils was an end in and of itself, but merely a means to achieve the end it said was necessary. This amendment dealing only with the means does not therefore violate or go beyond the law.

Mr. BENNETT. Mr. Chairman, the energy crisis facing this country is apparently one of the greatest ills we will experience in this country in our time. It will have serious implications on the health, employment, and general welfare of our constituents.

In many areas of our country we are experiencing another ill, forced busing for racial ratios. In any district this is contrary to the generally approved idea of neighborhood schools. If my correspondence and the polls I have taken are any indication of the feelings of my constituents, both my white constituents and my black constituents, approve the neighborhood school concept over the forced busing concept by an overwhelming majority.

Mr. Chairman, under the amendment before us we, therefore, have a chance to accomplish both the objectives of saving much-needed gasoline—and the tax money to buy it—together with preserving the neighborhood school concept. I, therefore, strongly support the amendment.

Ms. HOLTZMAN. Mr. Chairman, I rise in opposition to the amendment which purports to deal with the allocation of fuel for the busing of public school students.

It seems clear that the purpose of this amendment is to prevent court-ordered busing from taking place. Whether or not we agree with busing, it is also clear that the decisions of the courts are the law of this land. These decisions are binding on Congress as well as everyone else. Either we have laws that apply to everybody including the Congress or we have no laws at all.

When the President of the United States contemplated disobedience of a court it brought down a storm of protest from all over the country because people will simply not tolerate official disobedience to the rule of law. Yet by supporting this amendment which seeks to subvert the

orders of the court, Members would be doing the same thing. The amendment is probably also unconstitutional.

Furthermore, the amendment is so badly and irresponsibly drafted that it would create a chaotic mess of pupil assignments in New York City. It would require a Federal administrator to making the decisions on the assignment of every public school student in the city, overruling the decisions of local school boards and the board of education. It would discriminate against students who attend public schools since it does not apply the same energy conservation standards for those who use schoolbuses for private schools.

I would urge my colleagues to vote down this amendment. If there is any time that we must show respect for the rule of law, it is now.

Mr. SKUBITZ. Mr. Chairman, I have always opposed the busing of children for busings' sake. It has been my feeling that the solving of our problems of educational equality does not lie in busing children from one side of town to another in order to provide racial balance. It lies in the creation of quality education in all schools. Having said this, I hasten to add that since our courts have ruled otherwise our duty as legislators is to respect the law and not do by indirection what this body has failed to do directly.

What happens in a school district where the courts have ordered busing? Although this amendment on its face sounds laudable as a means of saving fuel it can only result in doing irreparable mischief and further to the divisiveness which we now experience. I urge the defeat of the amendment.

Mr. HANRAHAN. Mr. Chairman, I would like to point out here that I rise in support of this amendment because my Third Congressional District is the first school district north of the Mason-Dixon Line, School District No. 151 in South Holland, Ill., that had to undergo the effects of school integration and, as a result, lost over 2,000 school-children in 3 years.

This study that the gentleman from Texas (Mr. Collins) referred to today—in the Washington Post—I think is significant of the fact that mixing students throughout this country does not produce learning. The important thing to keep in mind is that quality instruction does produce learning and anything else is extraneous.

I wish the Record to indicate that I am strongly in favor of the amendment to the National Emergency Energy Act, introduced by my distinguished colleague, Congressman John D. Dingell of Michigan. The Dingell amendment would prohibit the allocation of fuel for the purpose of transporting schoolchildren beyond the boundaries of their own school districts.

During my tenure as a public official, I have consistently favored quality education for all children. No American child should be denied the opportunity to develop his talents to the maximum extend possible within the educational structure of our society. In my view, the most effective system of providing a basic education to our youth lies in the neighborhood school system.

I feel that the use of forced busing as a means of insuring racial balance is often counterproductive in terms of travel delays and ensuing educational quality. Furthermore, a recent report by Prof. James Coleman of Chicago University indicates that the home is more

important than school in affecting children's ability to read. Children from middle class and upper class backgrounds read better than children from lower class backgrounds, and this fact was not changed by racial integration or increased spending.

Furthermore, busing of children to achieve a racial balance results in a serious waste of valuable fuel at a time when our Nation can least afford it. During the serious energy crunch that America is currently experiencing, we must do all we can to conserve our precious fuels. If we do not conserve enough fuel, jobs will be lost and our Nation may be plunged into the nightmare of a recession. Such a horror can only be prevented if every American does his and her part to conserve energy usage. How can we, as public officials, urge our fellow citizens to conserve fuel, while we allow thousands and thousands of gallons of fuel to be unnecessarily used to bus children each day miles and miles from their neighborhoods for no substantial reason?

I cannot accept forced busing of schoolchildren out of their neighborhoods for racial balance for both valid educational and energy conservation reasons. It is thus with a sense of national purpose that I voted to support Congressman Dingell's most appropriate amendment to the National Emergency Energy Act.

Mr. PREYER. Mr. Chairman, many people will support this amendment because of the impact that busing has had upon U.S. education. I agree that busing has had a very harmful effect on education. But this amendment is not addressed to that larger problem. The place to resolve that question, is through bills coming out of the Education and Labor Committee or the Judiciary Committee—not a bill from the Commerce Committee.

It is a proper matter for a bill from the Commerce Committee to address itself to the impact of busing on the energy situation. It is on that basis that this amendment must stand or fall, and I think it stands. The fact, that it indirectly effects court-ordered busing for educational purposes—as long as that effect is temporary, reasonable, and results from an emergency situation—does not remedy it unconstitutional. I think there is a real distinction between education and transportation, and this amendment imposes a reasonable restriction on the transportation of students to conserve gasoline.

We are in a situation where there is not enough gas to go around.

If we do not have enough gas and oil, I doubt that the courts will overrule an order from the President allocating that gas and oil as long as that allocation has a reasonable basis. This is an allocation order from the President and Congress, not from a school board. It does not overrule any court order. Rather, it is saying that busing as a tool to bring about integrated schools is a tool that should only be used in a restricted fashion during a fuel crisis. Instead, we should consider other methods than nonessential busing to integrate schools under the present emergency circumstances.

The amendment does not flatly prohibit any form of busing. It says that priority in allocation of fuel is given to schoolbuses that transport children to the nearest school to their home. If local school authorities wish to bus beyond that, if they feel that social benefits so achieved are of sufficient importance, then such busing is not prohibited, but it is not given any priority allocation of gasoline. Such busing can be

continued if gasoline is available. This is a reasonable way to allocate scarce fuel, by limiting it to essential busing.

This differs from the Senate amendment on this subject in that it does not deny the busing of students for educational purposes, but is based on the essentiality of the busing for education. It says that the President may assign top priority among scarce fuel supplies for that transportation necessary to get to the school that is essential for the student's education. If the school board wishes to bus further for other reasons it considers desirable, it can do so but it gets no priority. As in business, as in our personal lives, we must abandon those things that are essential for the next two winters. There will be an enormous, and justified uproar if we allow in one area but not in another that which is desirable over that which is essential.

The reasonableness of this plan is related to the amount of gas that can be saved. It is estimated that the use of gasoline for busing school-children has tripled in the last 4 years.

For example, in my hometown of Greensboro, the city had 107 buses which used 131,817 gallons of gasoline in 1970-71. In 1972-73, after court-ordered busing was imposed, the city had 212 buses which used 288,239 gallons of gasoline—more than doubling the use of gas in 1 year. There are comparable figures for other North Carolina cities. There is no question that considerable gas can be saved if nonessential busing is eliminated.

There will be practical difficulties in adjusting school schedules to meet the objectives of the amendment. The most disruptive effects are avoided, however, by making August 1, the effective date of the amendment, thus avoiding the interruption of the current school year. Furthermore, the amendment provides that such plans—to minimize the distance traveled by students to and from school—shall be formulated in consultation with the affected State and local educational agencies.

It is my hope that when State and local educational agencies address themselves to this question, they will find that the court-ordered goal of integrated schools can be accomplished with far less busing than is presently employed. The only systematic attempt to date to study the ratio between busing of students and desegregation of schools—the so-called Lambda study—indicates that massive busing just does not make sense because it is unnecessary to achieve integration. It points out that our school system has plenty of room for working out different kinds of arrangements, and that with a little flexibility the goal of an integrated school system can be achieved with a minimum amount of busing. In the long run, I think the development of such alternatives to busing will be the answer to our school problems. This has been the goal of the bills I have introduced. The energy crisis may help to prove their point.

Mr. BEVILL. Mr. Chairman, I rise in support of the amendment offered by my colleague from Michigan to H.R. 11450. Congressman Dingell's amendment would prevent the allocation of gasoline to be used to bus public school children to a school farther than the public school closest to their home.

It would be a cruel paradox for us to take all the steps we have been considering to reduce the consumption of fuel, and at the same time allow this unnecessary busing to continue throughout the Nation.

If we are to be realistic, Mr. Chairman, we must admit that busing children miles from their homes and local schools is not in the best interest of the children or the country. It also is going to greatly increase the need for gasoline. In fact, it will take quite a supply just to get these children to the school nearest them.

As I have said before, an opportunity for a quality education is a right which must be made available to all on equal terms and without regard to race. But the time has come for us to be practical. It is not in the best interest of the Nation to use this extra fuel to continue busing in an effort to obtain racial quotas in our public schools.

Most studies that have come across my desk indicate that, to date, the effort has been a dismal failure.

The high cost of busing could better be spent on improving the curriculum, physical facilities, and teachers salaries.

Eliminating this unnecessary busing should be one of the first acts we take toward reaching a reasonable solution to the fuel crisis.

I urge all my colleagues to support this important amendment.

Mr. STAGGERS. Mr. Chairman, I will say to the Members of the House that I rise in opposition to the amendment. **[Sec. 103.]**

I do not believe the House would act reasonably if it attempts to take advantage of the energy crisis situation in order to overturn the efforts of school districts to achieve racial balance. Let us be clear that that would be the very effect of this amendment.

Let me point out to my colleagues that if they accept this amendment, it would almost certainly result in the death of this legislation. I know there are many Members who would vote against the entire bill if this amendment is put into it, and I would hope that my colleagues will not agree to it.

The amendment was brought up in our committee.

The gentleman from Washington asked that it be deferred, and by a record vote of 21 to 12, it was deferred in the committee and, therefore, voted down. That is what prevented me from ruling on its germaneness, and if that issue had come up, I would have ruled that it was not germane.

Mr. HAYS. Mr. Chairman, I was in doubt about the amendment, but if the gentleman will assure me that it will kill the bill, then I am going to have to vote for the amendment.

Mr. MITCHELL of Maryland. Mr. Chairman, I read an article recently about a young white teacher who taught in an all-black school. He made an effort to establish a meaningful rapport with the children. He used techniques that made them want to learn, and they did. Then it was learned by some people who were white what the teacher was doing. They objected to the rapport that was established, objected to what that white teacher was doing, and as a result the teacher was summarily transferred out.

Before he left, the kids had a party for him. At the party one of the young children said to the teacher, "Why do they hate us so?"

Mr. Chairman, that question may well be raised on this floor today, and I do so raise it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Dingell) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 192, not voting 19, as follows:

[Roll No. 662]

AYES—221

Abdnor	Dickinson	Keating
Alexander	Dingell	Kemp
Andrews, N.C.	Dorn	Ketchum
Annunzio	Downing	King
Archer	Duncan	Kuykendall
Arends	Edwards, Ala.	Landgrebe
Armstrong	Eilberg	Landrum
Ashbrook	Esch	Latta
Bafalis	Eshleman	Lent
Baker	Evins, Tenn.	Litton
Bauman	Fisher	Long, La.
Beard	Flowers	Long, Md.
Bennett	Flynt	Lott
Bevill	Ford, William D.	Lujan
Biaggi	Fountain	McCollister
Blackburn	Frey	McKay
Bowen	Froehlich	McSpadden
Bray	Fulton	Mahon
Breaux	Fuqua	Maraziti
Brinkley	Gardos	Martin, Nebr.
Brooks	Gettys	Martin, N.C.
Broomfield	Gibbons	Mathias, Calif.
Brown, Mich.	Ginn	Mathis, Ga.
Broyhill, N.C.	Goldwater	Michel
Broyhill, Va.	Goodling	Milford
Buchanan	Green, Oreg.	Miller
Burgener	Griffiths	Minshall, Ohio
Burke, Fla.	Gross	Mitchell, N.Y.
Burleson, Tex.	Grover	Mizell
Burlison, Mo.	Gunter	Moakley
Butler	Haley	Mollohan
Byron	Hammerschmidt	Montgomery
Camp	Hanley	Moorhead, Calif.
Carter	Hanrahan	Myers
Casey, Tex.	Harsha	Natcher
Cederberg	Hays	Nedzi
Chamberlain	Hébert	Nichols
Chappell	Henderson	O'Hara
Clancy	Hillis	Parris
Clausen, Don H.	Hinshaw	Passman
Clawson, Del.	Hogan	Patman
Cleveland	Holt	Pickle
Cochran	Hosmer	Poage
Collins, Tex.	Huber	Powell, Ohio
Conlan	Hudnut	Preyer
Cotter	Hungate	Price, Tex.
Crane	Hutchinson	Quillen
Daniel, Dan	Ichord	Randall
Daniel, Robert W., Jr.	Jarman	Rarick
Davis, Ga.	Johnson, Pa.	Regula
Davis, S.C.	Jones, Ala.	Rinaldo
de la Garza	Jones, N.C.	Roberts
Denholm	Jones, Okla.	Robinson, Va.
Derwinski	Jones, Tenn.	Rogers
Devine	Kazen	Roucallo, N.Y.

Rooney, Pa.
Rose
Rousselot
Runnels
Ruth
Ryan
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Slack
Snyder

Spence
Steelman
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Sullivan
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thornton
Towell, Nev.
Treen
Ullman
Vander Jagt
Veysey
Vigorito

Waggonner
Wampler
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wright
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion

NOES—192

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.Dak.
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Biester
Bingham
Blatnik
Boggs
Boland
Brademas
Brasco
Breckinridge
Brotzman
Brown, Calif.
Brown, Ohio
Burke, Mass.
Burton
Carey, N.Y.
Carney, Ohio
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Delaney
Dellenback
Dellums
Dennis
Diggs

Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Evans, Colo.
Fascell
Findley
Fish
Flood
Foley
Forsythe
Fraser
Frelinghuysen
Frenzel
Giamo
Gilman
Gonzalez
Grasso
Gray
Green, Pa.
Gude
Guyer
Hamilton
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Holifield
Holtzman
Horton
Howard
Johnson, Colo.
Jordan
Karth
Kastenmeier
Kluczynski

Koch
Kyros
Leggett
Lehman
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McKinney
Macdonald
Madden
Madigan
Mailliard
Mallory
Mann
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nelsen
Nix
Obey
O'Brien
O'Neil
Owens
Patten
Pepper
Perkins
Pettis
Peyser
Pike

Price, Ill.
 Pritchard
 Quie
 Railsback
 Rangel
 Rees
 Reid
 Reuss
 Rhodes
 Riegle
 Robison, N.Y.
 Rodino
 Roe
 Roncalio, Wyo.
 Rosenthal
 Rostenkowski
 Roush
 Roy
 Roybal
 Ruppe

St Germain
 Sarbanes
 Schroeder
 Sebelius
 Seiberling
 Skubitz
 Smith, Iowa
 Smith, N.Y.
 Staggers
 Stanton, J. William
 Stanton, James V.
 Stark
 Stead
 Steele
 Steiger, Wis.
 Stratton
 Studds
 Symington
 Thomson, Wis.

Thone
 Tiernan
 Udall
 Van Deerlin
 Vanik
 Waldie
 Ware
 Whalen
 Widnall
 Wiggins
 Williams
 Wilson, Charles H.,
 Calif.
 Wolff
 Wyder
 Wylie
 Yates
 Young, Ga.
 Zwach

NOT VOTING—19

Bolling
 Burke, Calif.
 Clark
 Collier
 Davis, Wis.
 Dent
 Erlenborn

Gubser
 Harvey
 Hunt
 Johnson, Calif.
 Mills, Ark.
 Podell

Rooney, N.Y.
 Stokes
 Taylor, Mo.
 Thompson, N.J.
 Walsh
 Wyatt

So the amendment was agreed to. **[Sec. 103(a).]**

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BROYHILL OF NORTH CAROLINA TO THE
 AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. BROYHILL of North Carolina. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Broyhill of North Carolina to the amendment in the nature of a substitute offered by Mr. Staggers: On page 32, strike line 9 through line 4, page 37 and insert the following:

"Sec. 117. Limitations on Petroleum Profits.—

"(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 103 of this Act) is further amended by adding at the end thereof the following new subsection:

"(k) The President, to the extent practicable, shall exercise his authority under this Act and under the Economic Stabilization Act of 1970 as amended so as to permit no more than reasonable profits to sellers of crude oil, refined petroleum products, and residual fuel oil, taking into account those profits necessary for reinvestment for research and development, exploration, development, and production intended to increase the Nation's domestic energy supplies.

"(b) Not later than 60 days after the date of enactment of this Act the President shall submit to the Congress legislation necessary to further achieve the purposes of subsection (k) and designed to provide additional incentives for the investment of any such profits in support of expanded research and development, exploration, development, and production of the purpose of increasing the Nation's domestic energy supplies."

Mr. BROYHILL of North Carolina. Mr. Chairman, this is the amendment that the gentleman from Louisiana (Mr. Waggoner) had announced to the House some time back before the Dingell amendment was considered that he intended to offer to section 117, the so-called

windfall profits section. Of course, obviously because of the parliamentary situation here, it would be difficult for a Member who is not a member of the Committee on Interstate and Foreign Commerce to get recognition, so I am offering this amendment on behalf of the gentleman from Louisiana (Mr. Waggonner). I know he will get time later, of course, to speak on this amendment.

Mr. Chairman, this section does not belong here, because frankly, it is not germane to the bill. This is one of the sections of the bill that I am confident would have been ruled out of order if there had not been debatable points of order in the rule which governs the debate on this bill.

The subject matter of this amendment is clearly under the jurisdiction of another committee in the House of Representatives.

I want to call attention of the Members to the actual words that are in this section. I hope Members have access to a bill. **Section 117** is found on page 32 through page 37 of H.R. 11882.

I think Members will have to agree with me that a fair reading of this language would indicate that this provision called for here would be impossible to administer. I have nothing but questions to ask as to how a program like this would be administered under the language which is contained in H.R. 11882.

What kind of staff does the Renegotiation Board have to administer a nationwide program such as this? The Renegotiation Board was set up to monitor contracts of the Federal Government. What expertise do they have to rule on questions of what reasonable profits should be on petroleum products?

Here we are saying that another agency will get into the act. They will write regulations. They will make determinations on what prices the particular products can be sold for, what the profits will be. We already have other agencies that are making determinations and investigations in this area. We have the Internal Revenue Service. We have the Cost of Living Council making determinations on what prices should be.

Consider what kind of complications would occur if we set up another agency to have some authority in this area. One might say one thing and one would say another. There would be an impossible burden on all sellers of petroleum products to know exactly what the rules of the game would be.

I tell the Members that in my interpretation and the interpretation of others who have read this language, that any seller of petroleum products, be it the gasoline dealer in the neighborhood, the oil jobber or the distributor, all the way up to Exxon, all of them would bear this burden.

Under the terms of the language in the bill the Board would hold hearings if anyone petitioned the Board saying they thought the price that was being charged was too high and would lead to windfall profits.

Where are these hearings going to take place? Are we going to require all these people to come to Washington? Will it be held in the district of the Member or the hometown of the person that has been complained against?

I say that this language here is unworkable. My substitute would say that the President shall exercise his authority under the

Economic Stabilization Act so as to permit no more than reasonable profits for sellers of petroleum products.

Second, my amendment says that not later than 60 days after the enactment of this act, that the President shall submit to the Congress legislation necessary not only to further achieve the purposes of prohibiting unreasonable profits, but in addition legislation designed to provide additional incentives for investment of profits to support expanded research and development, exploration, development, and production.

Mr. BROYHILL of North Carolina. Mr. Chairman, this is the way to answer this problem. I agree with those who have expressed concern about the so-called windfall profits, as they have been termed. The way to get at them is to do it through substantive legislation, standing on its own and considered by a committee of this House which has jurisdiction of this question.

Mr. HAYS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think the House is now facing the crux of this whole legislation, and that is, do we give the President power to ration gasoline and at the same time allow the oil companies to raise their prices to any extent they want to.

The Members have all seen what has happened recently. In the past few months, gasoline has gone from 35 cents a gallon for regular at the local filling station in my district to 50 cents—49.9, which is to all extent and purposes 50 cents.

What about the profits of the oil companies? They say that they cannot explore, that they cannot hunt for more oil, that they do not have the capital. Well, they get a 22-percent depletion allowance, and they get that whether they drill one well or whether they drill zero, and most of them are drilling zero.

I am sorry that I do not have the sheet in front of me which will show what every oil company in the country is making in the way of profits, but I can recall two or three of them. The third quarter profits over the third quarter of last year; 1973 over 1972, shows that the Exxon Co., the biggest one of them all, has increased its profits by 81 percent. And Amerada Hess, which had the best record, also increased its profit by 295 percent. There was only one of them that did not increase profits. The one that increased its profit the least was Standard Oil of Ohio, which owns no crude at all and which is at the mercy of the crude producers, and its net was up 20 percent.

Now, the amendment really takes the lid off the oil companies and puts the gouge on the consumer. If any Member can go home and explain to his people, who will be paying a dollar a gallon for gasoline if this amendment passes, why he voted to do that to them, he can go right ahead. If they think that is good representation, that is great, but I not believe my people would.

What about the taxes of these oil companies? Well, I do not have that figure here either—I sent for it, but I did not expect to get the floor this quickly—but I can tell the Members this, that the average of all the oil companies in the country put together on income tax came to 6.7 percent on their incomes, which is less percentage than a wage earner with a family of four earning \$8,000 per year would pay.

Now, do not let everybody tell us that these big oil companies are suffering.

Last May, when I came home from a committee meeting in London, the NATO Committee meeting, they started talking about the shortage, and there was a shortage for 2 or 3 weeks. Then the Office of Price Administration allowed the price to go up, and the shortage disappeared. This was in the season when we had the most driving; people were driving all over creation, and we could get gas any time except for a couple of weekends when a few stations closed down.

I said then, and I say it is more true today than it was then, that when these big oil companies—and they are big international conglomerates, all of them—get the price of gasoline up to what it is in Europe, the shortage will disappear.

These big oil companies have been totally supplying Europe with oil from the Arab nations; they still are, by the way.

The price of gasoline in Europe ranged then from 70 cents a gallon in England to \$1.15 a gallon in Greece. When they get the price up to that figure in the United States, the oil shortage will disappear magically overnight.

They have been chafing for years over the fact that they were not able to stick it to the public in this country like they have been able to stick it to them in other countries.

Mr. BURTON. Mr. Chairman, I would like to commend the gentleman in the well, our distinguished colleague (Mr. Hays). I would like to associate myself with the gentleman's remarks, and I would like to direct this question to the gentleman in the well:

Would the gentleman not say that this amendment might also be called the "Congressional Retirement Act of 1973" for most of those Members who vote for it?

Mr. HAYS. I think it could really be called that.

Of course, I am not going to use that against any of my colleagues on this side, but as chairman of the Democratic Campaign Committee, I would not be above using it against anybody on the other side.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise so that I might get an understanding. I think what I am about to request is highly important.

We have been considering this bill since 10 o'clock yesterday. We were in session here 9 hours yesterday continuously on this bill, and we have been in session now today for 4 hours. It would be my feeling that from now until 8 o'clock would be sufficient time to dispose of this bill completely, as well as all amendments thereto.

Therefore, Mr. Chairman, I ask unanimous consent that all debate on the bill, and all amendments thereto, conclude at 8 o'clock tonight.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. HEINZ. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, I will amend my request as follows:

Mr. Chairman, I ask unanimous consent that all debate on the bill, and all amendments thereto, conclude at 9 o'clock tonight.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. HEINZ. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I move that all debate on the amendment offered in the nature of a substitute, the text of H.R. 11882, and all amendments thereto, conclude at 10 o'clock tonight.

The CHAIRMAN. The question is on the motion offered by the gentleman from West Virginia.

RECORDED VOTE

Mr. BROYHILL of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 58, noes 351, not voting 23, as follows:

[Roll No. 663]

AYES—58

Adams	Hinshaw	Patman
Arends	Hudnut	Patten
Bell	Jones, Ala.	Pepper
Bevill	Jones, N.C.	Quillen
Brown, Calif.	Koch	Rhodes
Byron	Kuykendall	Rooney, Pa.
Cotter	Lehman	Ryan
Diggs	Long, Md.	Sebelius
Dingell	McFall	Shipley
Eckhardt	McSpadden	Slack
Fascell	Macdonald	Staggers
Fisher	Melcher	Steed
Foley	Metcalfe	Stratton
Grasso	Mollohan	Teague, Tex.
Gray	Morgan	Van Deerlin
Hanna	Murphy, N.Y.	Vigorito
Hansen, Wash.	Nedzi	Ware
Harrington	O'Brien	Whitehurst
Hays	O'Neill	
Hébert	Passman	

NOES—351

Abdnor	Beard	Brotzman
Abzug	Bennett	Brown, Mich.
Addabbo	Bergland	Brown, Ohio
Alexander	Biaggi	Broyhill, N.C.
Anderson, Calif.	Biester	Broyhill, Va.
Anderson, Ill.	Bingham	Buchanan
Andrews, N.C.	Blackburn	Burgener
Andrews, N.Dak.	Blatnik	Burke, Fla.
Annunzio	Boggs	Burke, Mass.
Archer	Boland	Burleson, Tex.
Armstrong	Bowen	Burlison, Mo.
Ashbrook	Brademas	Burton
Ashley	Brasco	Butler
Aspin	Bray	Camp
Badillo	Breaux	Carney, Ohio
Bafalis	Breckinridge	Carter
Baker	Brinkley	Casey, Tex.
Barrett	Brooks	Cederberg
Bauman	Broomfield	Chamberlain

Chappell	Gettys	Lujan
Chisholm	Gialino	McClory
Clancy	Gibbons	McCloskey
Clausen, Don H.	Gilman	McCollister
Clawson, Del.	Ginn	McCormack
Clay	Goldwater	McDade
Cleveland	Gonzalez	McEwen
Cochran	Goodling	McKay
Cohen	Green, Oreg.	McKinney
Collins, Ill.	Green, Pa.	Madden
Collins, Tex.	Griffiths	Madigan
Conable	Gross	Mailliard
Conlan	Grover	Mallary
Conte	Gude	Mann
Conyers	Gunter	Maraziti
Corman	Guyer	Martin, Nebr.
Coughlin	Haley	Martin, N.C.
Crane	Hamilton	Mathias, Calif.
Cronin	Hammerschmidt	Mathis, Ga.
Culver	Hanley	Matsunaga
Daniel, Dan	Hanrahan	Mayne
Daniel, Robert W., Jr.	Hansen, Idaho	Mazzoli
Daniels, Dominick V.	Harsha	Meeds
Danielson	Harvey	Mezvinsky
Davis, Ga.	Hastings	Milford
Davis, S.C.	Hawkins	Miller
Davis, Wis.	Hechler, W. Va.	Minish
de la Garza	Heckler, Mass.	Mink
Delaney	Heinz	Minshall, Ohio
Dellenback	Helstoski	Mitchell, Md.
Dellums	Henderson	Mitchell, N.Y.
Denholm	Hicks	Mizell
Dennis	Hillis	Moakley
Derwinski	Hegan	Montgomery
Devine	Holifield	Moorhead, Calif.
Dickinson	Holt	Moorhead, Pa.
Donohue	Holtzman	Mosher
Dorn	Horton	Moss
Downing	Hosmer	Murphy, Ill.
Drinan	Howard	Myers
Dulski	Hungate	Natcher
Duncan	Hutchinson	Nelson
du Pont	Ichord	Nichols
Edwards, Ala.	Jarman	Nix
Edwards, Calif.	Johnson, Colo.	Obey
Eilberg	Johnsen, Pa.	O'Hara
Esch	Jones, Okla.	Owens
Eshleman	Jones, Tenn.	Parris
Evans, Colo.	Jordan	Perkins
Evins, Tenn.	Karth	Pettis
Findley	Kastenmeier	Peyser
Fish	Kazen	Pickle
Flood	Keating	Pike
Flowers	Kemp	Poage
Flynt	Ketchum	Powell, Ohio
Ford, William D.	King	Preyer
Forsythe	Kluczynski	Price, Ill.
Fountain	Kyros	Price, Tex.
Fraser	Landgrebe	Pritchard
Frelinghuysen	Landrum	Quie
Frenzel	Latta	Railsback
Frey	Leggett	Randall
Froehlich	Lent	Rangel
Fulton	Litton	Rarick
Fuqua	Long, La.	Rees
Gaydos	Lott	Regula

Reid	Shuster	Ullman
Reuse	Sikes	Vander Jagt
Riegle	Sisk	Vanik
Rinaldo	Skubitz	Veysey
Roberts	Smith, Iowa	Waggonner
Robinson, Va.	Smith, N.Y.	Waldie
Robison, N.Y.	Snyder	Wampler
Rodino	Spence	Whalen
Roe	Stanton, J. William	White
Rogers	Stanton, James V.	Whitten
Roncalio, Wyo.	Stark	Widnall
Roncallo, N.Y.	Steele	Wiggins
Rosenthal	Steelman	Williams
Rostenkowski	Steiger, Ariz.	Wilson, Bob
Roush	Steiger, Wis.	Wilson, Charles H., Calif.
Rousselot	Stephens	Wilson, Charles, Tex.
Roy	Stubblefield	Winn
Roybal	Stuckey	Wolff
Runnels	Studds	Wright
Ruppe	Sullivan	Wylie
Ruth	Symington	Wyman
St Germain	Symms	Yates
Sandman	Talcott	Yatron
Sarasin	Taylor, N.C.	Young, Fla.
Sarbanes	Teague, Calif.	Young, Ga.
Satterfield	Thone	Young, Ill.
Scherle	Thornton	Young, S.C.
Schneebeli	Tiernan	Young, Tex.
Schroeder	Towell, Nev.	Zablocki
Seiberling	Treen	Zion
Shoup	Udall	Zwach
Shriver		

NOT VOTING—23

Bolling	Hunt	Taylor, Mo.
Burke, Calif.	Johnson, Calif.	Thompson, N.J.
Carey, N.Y.	Mahon	Thomson, Wis.
Clark	Michel	Walsh
Collier	Mills, Ark.	Wyatt
Dent	Podell	Wydler
Erlenborn	Rooney, N.Y.	Young, Alaska
Gubser	Stokes	

So the motion was rejected.

The result of the vote was announced as above recorded.

Mr. CEDERBERG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask unanimous consent to speak out of order.

Mr. HAYS. Mr. Chairman, reserving the right to object, and I will not object, I do so to announce to the House that very shortly I intend to offer a preferential motion to strike the enacting clause out of this can of worms.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. MOSS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose the amendment offered by the gentleman from North Carolina on behalf of the distinguished gentleman from Louisiana (Mr. Waggonner).

I think the gentleman from Ohio (Mr. Hays), as he usually does, very succinctly stated the situation. The public is not going to be fooled

by actions of this type. I suppose that there are somewhere along the line some finite limitations to the appetite of these multinational conglomerates for profit. I do not know what the limitations might be. They are earning very substantial profits and they stand to continue to earn ever-increasing profits. They have succeeded in recent months in bringing about the demise of more independent businesses than any comparable period in an industry since the dark days of the depression of the late twenties and early thirties.

They have rendered antitrust laws virtually ineffective, because they have succeeded in eliminating any competition that was at all troublesome. These giant monopolies control petroleum products from the well to the pump, 50-cents-a-gallon gas, 70-cents-a-gallon gas, a dollar-a-gallon gas. As long as they can continue to squeeze and find a market, rest assured the pressure will be there; but I do not think that the people of this Nation are going to be satisfied.

Out in my State, our Governor, Ronald Reagan—I think the gentlemen know him not to be an example of great liberality—recommended and urged the legislature to enact legislation for catching up of the salaries of public employees of the State through an 11 percent increase, a catch-up increase, and the Cost of Living Council cut it to 7 percent.

Those people are not going to understand a Congress that has such a compassionate regard for these giants of energy that we say they have got to have windfall excessive profits to give them incentive.

We do not even require them to take their depletion allowances and commit them to exploring to find new supplies. We give them highly privileged tax status, not only for investments at home, but for investments abroad. To me, there is something approaching the obscene for so much concern to be shown for them and so little regard for the pocketbook and the welfare of the public; but each of us has to live with ourselves at the end of each day.

I am going to vote against this amendment to strike this minimal safeguard that was written into this legislation against windfall profits.

I think in doing so I will be reacting to the needs and the desires of the people I represent. I hope that all of the rest of the Members when they cast their vote can say the same.

Mr. Young of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Broyhill amendment. First of all, I hope we all take the time to read this windfall section and know what the terms and provisions of the windfall section are.

I am not here to speak on behalf of the oil companies. I am not here to protect anybody's excess profits, but I am here to try to get a good energy bill.

Now, this is an emergency energy bill. There is nothing of emergency about the windfall tax provisions of this bill.

There are several things wrong with the windfall profits section of this bill. There is a wrong definition of the windfall profits. It is in the wrong law, it has the wrong administrator, and the so-called windfall profits are going to be given back to the wrong persons. The wrong persons are the purchasers of the supplier or seller, who made the windfall profits and the windfall profits tax should be going back to the taxpayers.

I will suggest to the Members what we ought to do and what we should do. We should let the Committee on Ways and Means develop the proper excess profits tax in due course. When they do, it can be made retroactive to January 1, 1974. There is no emergency about that. We will then get the right administrator. We will get the right type of excise profits tax. It will go to the right people, where it should go. The excess profits tax will go to the taxpayers of the whole United States and not some particular customer of some particular seller under the terms of this bill.

Mr. RHODES. Mr. Chairman, the Broyhill amendment, I think, is absolutely a must as far as this bill is concerned. I certainly support it. One reason I do so is not because of the fact that there has not been profiteering or that there might not be profiteering, but because this is not the way to handle it.

I have assurances from the administration that when the state of the Union message occurs, or perhaps shortly thereafter, there will be legislative proposals to take care of the situation involving excess profits. It would certainly be my hope that the House would wait until this is done so that it can be done in an orderly way, by the proper congressional committee.

Mr. YOUNG of Illinois. Mr. Chairman, I would like to give one example, and that example is this: Under the windfall profit sections, if the Members will read them carefully, they will find that there could be two or three sellers, all selling at the same price, but somebody could challenge one particular seller who, because of his particular background or profit experience, might be determined by the Renegotiation Board to be making so-called windfall profits. If that determination is made, then the moneys that would be taken from that particular seller are supposed to be given back to his customers, even though his customers paid the same price as the customers who bought from another competing seller down the street.

That is wrong. If there are excess profits, they should go to the U.S. Government for the benefit of all the taxpayers.

Mr. ECKHARDT. Mr. Chairman, will the gentleman tell me why the persons who have been overcharged should not receive the money back rather than the ordinary taxpayer?

Mr. YOUNG of Illinois. Mr. Chairman, I have just explained it to the Members. If the gentleman from Texas will understand that the different purchasers buying from three different sellers, all at the same price, but because one particular seller had excess profits and the other two did not, under the terms of this section the purchasers from the one seller would be determined to get money back, whereas the others would not, even though all bought at the same price.

Why should they receive a profit? If there are going to be any excess profits determined, such excess profits ought to go to the Federal Government and all the taxpayers.

Mr. HOWARD. Mr. Chairman, in his statement earlier, the gentleman stated something about this having the wrong administrator in it.

It has not yet been decided, but did the gentleman have anyone particular in mind who is expected to administer this, whom he objects to?

Mr. YOUNG of Illinois. Mr. Chairman, I think the Internal Revenue Service would administer it if it is drawn as excess profits tax. That

drafting would be taken care of by the Committee on Ways and Means.

MR. MACDONALD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think that this goes to one of the very central arteries, if not to the heart, of the bill. The reason it does is because it points up very clearly in my mind what has been wrong and what continues to be wrong with all the 8, 9, or 10 major oil companies who impose their will on the U.S. Government.

I think that those who—and I know there will be some—who say that we have not treated the oil companies fairly that, indeed, they need more depreciation allowance in order to go forward and to try to find oil and gas here in the continental limits where they know proven reserves are, overlook the fact that until this Congress takes a look at the entire energy crisis as a whole and does not try to do in patches what should be done in one overall legislative oversight, the Government itself will still be hamstrung by the oil majors.

Mr. Chairman, they do this in ways that would make one's blood run cold. It makes my blood run cold, in any event.

They do it in ways in which they can buy either into a sheikdom or buy a sheikdom itself. They have tax depletion allowance which was designed to develop new ways to find oil and gas within the United States, but which has been turned into a farce, by which these oil companies take a foreign oil depletion allowance of the same amount of money, as if the oil and gas was contained here within the continental United States.

They also have deals made with either sheikdoms and/or leaders of so-called Arab oil companies whereby they make a deal to pay taxes to that country, and in so doing, when they pay taxes to that country, under the present tax setup they do not have to pay one penny of that money to the United States.

So instead of paying money to the United States for what they owe to the United States because of the fact that they have prospered under our rules in the United States, they pay money to a foreign company and not 1 cent comes back here.

It seems to me more than adequately clear that it is and will be, unless we do something about it, a farce to give these people the tax benefits for foreign tax credits which were intended to encourage jobs here in the United States to take refuge behind the loopholes that are replete throughout our oil depletion and tax laws and use them to their own purpose.

Mr. Chairman, I urge the Members, rather than to try to take away the very minimum standards by which we try to prevent windfall profits, that we should go farther than what we are presently doing and really crack down on these people, not help them earn more unearned money.

MR. ADAMS. Mr. Chairman, I wish to commend the gentleman for his statement.

The gentleman's subcommittee has spent literally months and years on this subject, and the gentleman is precisely correct.

I am against the Broyhill amendment, and I hope the amendment will be defeated.

PREFERENTIAL MOTION OFFERED BY MR. HAYS

Mr. HAYS. Mr. Chairman, I offer a preferential motion.
The Clerk read as follows:

Mr. Hays moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. HAYS. Mr. Chairman, I think the Members can see now, after many hours of debate, that this can of worms is getting wormier by the minute.

The President has at his disposal now over 400 pieces of legislation which give him emergency powers. If the President needs to do any single thing—and I will take as an example gasoline rationing—he can propose a plan and ask for the authority to do it, and if he can present a case, I am sure the Congress will act responsibly.

However, this is an omnibus thing, and none of us really knows what it will do in the end or in the ultimate.

There are a lot of important bills awaiting action, and I think the thing to do is to simply turn this one down, strike out the enacting clause, and let the President tell us specifically what he wants.

Mr. Chairman, I would like to correct a couple of statements I made from memory when I spoke previously.

I said that Amerada Hess made a 250-percent increase in profit. It was actually 295 percent.

I said that the total average in income tax was 2.8 percent. It was actually 6.7 percent.

Mr. Chairman, I would just like to read a couple of other figures to give the Members some impact on this.

Texaco in 1971 had a net income, after all deductions but before taxes—not a gross, but a net—of \$1,319,468,000 and they paid 2.3 percent of that in taxes.

Gulf had an income of \$1,324,914,000, and they paid 2.3 percent.

Standard of New Jersey, which we had better refer to as Exxon, paid more tax. They paid all the way up to 7.7 percent on an income of \$2,736,717,000.

Mr. ROUSH. I think that the figures the gentleman has given us are shocking. Where do these profits come from? I have the latest statistics taken from the monthly publication entitled "Wholesale Prices and Price Indexes." These are from the Bureau of Labor Statistics. They relate to wholesale price increases in 1973 through November. I changed these to percentages. Crude oil, an increase of 21.4 percent; refined products, 88.3 percent; gasoline, 77.9 percent; light distillates, 144.3 percent; middle distillates, 124.9 percent; and residual fuel, 81.3 percent.

Mr. HAYS. In other words, the crude went up 21 percent, and the cost of the refining of it did not increase or, if it did, it was 3 or 4 percent at the most, but the price of gasoline was how much?

Mr. ROUSH. 77.9 percent.

Mr. HAYS. There is your answer. That is profiteering. And it is worse since it is aimed at the people who can least afford to pay.

Mr. ROUSH. Most of these increases came in the last 2½ months.

Mr. HAYS. That is right.

Mr. GOLDWATER. I rise in support of this preferential motion.

I am not sure just what those figures are and what they mean as far as supporting the preferential motion, but serving on the committee I voted against this bill only from the standpoint that I did not know what I was voting about, primarily because of the haste with which this legislation was rushed through and the haste that permeated the committee hearings on it.

Mr. HAYS. If I may interrupt the gentleman for a second—and I will yield to him further—my figures came from the U.S. Department of Commerce, so I have to assume they are authentic. Maybe I am foolish to make that assumption.

Mr. GOLDWATER. We are acting on a very important historic piece of legislation to which not enough or not adequate time has been given. Therefore, I do support the preferential motion offered by the gentleman from Ohio.

Mr. RUPPE. I certainly do not want to get between my two distinguished colleagues in supporting the same motion, but in a more serious vein, I wonder whether anyone on the committee would have an indication not just of the profits of the oil companies either this year or in the last 5 years, but the rate of return on investments of those same companies this year or in the prior 5 years, because, in a more serious vein again, I just do not want to belabor this point.

Mr. DINGELL. Mr. Chairman, as I say, I rise in opposition to the preferential motion offered by the gentleman from Ohio (Mr. Hays).

Having listened first to the motion and then to the remarks of the gentleman from Ohio, I came away a bit confused as to the gentleman's goals. It struck me that the gentleman was making not only a great speech in favor of H.R. 11882, but the gentleman was at the same time denouncing the legislation.

Windfall profits in the energy industry are only one evil that the legislation before us strikes today. The legislation before us really is very simple. We are dealing with allocations. We provide some additional priorities in energy allocation. The legislation attacks the problem of windfall profits, and we do so simply and well.

Mr. Chairman, in the bill before us we deal with the problem of allocation of coal, something which has not previously been done. We deal again with the allocation of gasoline and petroleum products in a fashion and in a manner which we have not previously done in the Emergency Petroleum Allocation Act of 1973.

We make certain changes with regard in regulating carriers, reducing the amount of energy demand which they will have. We deal with the air pollution laws, in a very gentle fashion, we extend forward for 2 years the 1976 automobile emissions standards, so as to make the best unit of pollution abatement and automobile gasoline mileage, we make our air pollution laws to permit more intelligent husbanding of our energy resources without undue violence to the environment.

We deal with the fair marketing of petroleum products, something which I think is very important, particularly at this time of domestic shortages and crises.

We deal with the point that the gentleman from Ohio (Mr. Hays) covered very well—a prohibition on windfall products and, Mr. Chairman, at an appropriate time I would like to address myself to that issue.

Mr. HAYS. Of course, all of those things are in the bill, but we have been 2 days now on amendments to the bill, all totally having been offered by the members of the committee, and I understand that there are some 50-odd more amendments—somebody says 60-some. Nobody knows what will be in this bill when it finishes, and the committee really will not know, and I think some of them do not know what is in it now.

Mr. DINGELL. If the gentleman will permit me to interject, I think the gentleman makes a very good point. When we find out what is in the bill, then it will be time enough to vote on whether or not we want to accept or reject the bill. As it stands, the bill is a good bill. As it stands, we face a major crisis in heating oil fuel with the very good prospects of cold homes and electricity shortages, shortages of coal, and shortages of petroleum products.

Just this morning there was an announcement that we face a 5-per-cent cut in gasoline products, which may be a heavier burden still when they strike the average motorist. We face possible electrical curtailments. We face possible shortages in coal. We face shortages of all manner and kind due to the shortage crisis in the energy field.

No one in this body, I believe, at this time wants to go home and face their constituents and to admit that he did not do everything possible to meet the energy shortages which are confronting this country. I hope that no one will vote frivolously or lightly on this motion. Certainly we have a lot of amendments; but that must be expected in a highly controversial bill dealing with a highly critical, highly dangerous, and highly controversial situation such as that in which we find ourselves. But we must vote wisely and prudently. The peril to our constituents is too great. I hope that the motion to strike the enacting clause will not carry.

Mr. HAYS. The gentleman from Michigan states all of the shortages, but I am not convinced that this bill will do anything to cure them.

As somebody said earlier, this bill is a domestic Gulf of Tonkin resolution that will let the President and Mr. Simon do anything they want.

Mr. DINGELL. The gentleman from Ohio has raised a point as to whether we have a Gulf of Tonkin resolution in the legislation before us. We do not, that point was handled by the amendment offered by my friend, the gentleman from Texas (Mr. Eckhardt). It was handled by that amendment in the Commerce Committee. And it was handled in this committee when we rejected the amendment which would have restored the original language of the bill, allowing the President the vast power to set up vast and sweeping energy conservation plans which would enable the President to close businesses, fix shop hours, prescribe who, when and where a person may operate a vehicle, and to do all manner of other things. I hope that that issue is behind us.

I hope my good friend, the gentleman from Ohio, will stand with the committee. I think that we should reject the motion to strike the enacting clause. The motion is a bad motion, it is untimely, and it should be voted down.

The CHAIRMAN. All time has expired.

The question is on the preferential motion offered by the gentleman from Ohio (Mr. Hays).

The preferential motion was rejected.

Mr. JARMAN. Mr. Chairman, I rise in support of the Broyhill amendment.

Mr. JARMAN. Mr. Chairman, on the amendment before us, the Broyhill amendment, much has been said about the big oil companies and excessive profits, big oil companies and windfall profits. I think it is important for the House to remember as we vote on this amendment that **section 117** of the bill applies to all levels of the oil industry, to the producer, to the retail marketer. It applies to the small businessman as well as the big businessman. I think that is important in the Members' consideration of the bill and the need for this amendment. The opportunity to make a reasonable profit has been and is fundamental to the free enterprise system of this country. Reasonable profits are the essence of the Broyhill amendment.

If the Members will bear with me, let me read just a few lines from the first part of the amendment. All it says is:

The President, to the extent practicable, shall exercise his authority under this Act . . . so as to permit no more than reasonable profits to sellers of crude oil, refined petroleum products, residual fuel oil, taking into account those profits necessary for reinvestment for research and development, exploration, development, and production intended to increase the Nation's domestic energy supplies.

That is the objective of the legislation we are trying to write—reasonable profits, the essence of the Broyhill amendment, which ties in with the objective of this bill.

Mr. Chairman, I urge the adoption of the amendment.

Mr. HASTINGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. WAGGONER. Mr. Chairman, this language would not be in this bill except for the rule granted in sending it to the floor which waives points of order, because this bill requires the utilization of the Renegotiation Board to make a determination as to what constitutes a windfall profit. This is rightfully a Ways and Means matter. There is not anybody here who can define what constitutes a windfall profit.

One margin of profit might be a windfall for one individual, and another margin might be a windfall for some other individual.

If you will turn to the bill as printed on page 11 of the report, **section 117**, subparagraph (2), it says:

(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, refined petroleum products, residual fuel oil, or coal, permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the "Board") for a determination under subparagraph (A) or (B) of paragraph (3).

Let us talk about whether or not what this proposes can or will work. I submit to you that it cannot. It cannot work, first of all, because one does not even have to be a purchaser of a product that he thinks might be too high. He can be sitting on the sidelines and say, "This man is charging too much for this product, or that product, and he makes an appeal to the Renegotiation Board for determination as to whether or not there has been a windfall profit." There would be hundreds of thousands of such complaints. Hearings are required and judicial appeal is available. We would come to a screeching halt.

Let us talk about what the Renegotiation Board is. It is something that most do not really understand, established 17 years ago, and I say that because they have had 17 annual reports. I want to describe the Renegotiation Board from the last annual report dated December 31, 1972. They then had a total employment of only 223 people. That is down to 195 people at this very moment. Of that 223 people on December 31, 109 of them were in the headquarters office and they had only two field offices in the United States, an eastern office here in Washington and a western office located in San Francisco. Ridiculous is it not?

Who on Earth would believe that the machinery is here? If we want to prohibit the establishment of another bureaucracy to administer such a proposal as this we must take this into account, and it was not taken into account when this section was written.

The Renegotiation Board has no authority whatsoever except to renegotiate what they term excess profits only in the instances of contracts between some individual contractor and the U.S. Government and only in the instances of negotiated contracts and not contracts which are put out for bid.

But what constitutes a reasonable profit? And that is all this amendment proposes we do, that we do not allow any more than a reasonable profit, and this amendment talks about limiting windfall profits.

Turn to page 12 of the bill as printed in the committee report and you will see that for purposes of this subparagraph the term "windfall profits" means a reasonable profit with respect to the particular seller as determined by the Board. That is all in the world we are asking for in the instance of this amendment. Why not use the word "reasonable"?

Look at paragraph 1, the first paragraph of the amendment. We are saying we place the burden upon the President to allow only reasonable profits, and I am using the language used in the bill to prove that point that by limiting windfalls you require something reasonable.

But let us think some more about this. This language in this proposed substitute still controls prices and still controls profits. It just simply does it in a way that can be made to work. It cannot be made to work under the provisions of the Renegotiation Act. We are not doing away with price control. The Cost of Living Council takes care of that.

Mr. WAGGONER. It provides that prices and profits be controlled. The provision of this amendment will simply let us succeed in controlling profits but let us think about this situation further.

If we are going to be very objective about this, we will remember that earlier this afternoon or today since we have convened the gentleman from Kentucky (Mr. Carter) proposed an amendment to remove coal from the provisions of this section. The gentleman from West Virginia, the chairman of the committee as chairman of the committee readily indicated his willingness to accept that, because he said he understood the problems of coal. If we are going to be fair, if we are thinking about providing energy, are we not going to consider all energy in exactly the same light, because energy is what we hope to provide in enacting this legislation? We intend to provide more of it. But it is even more difficult than that. We now have a double standard.

I am advised by members of the Rules Committee on both sides of the aisle, on my side of the aisle which is the Democrat and on the

other side of the aisle which is the Republican, that when the chairman went before the Rules Committee and asked for this rule he stated to this committee that this section on limiting profits, windfall profits should not be in the bill. I wonder what has happened since that time?

But now let us talk about making money. A gentleman put it in the proper perspective a moment ago. Dollars and percentages do not mean anything unless we relate that to the return on our investment. But who makes the money? The stockholders of these oil companies make it. These companies are no longer family-owned companies. They are corporations and the individual stockholders own them. What do you think has happened to them and their income from those stocks with the way the stock market has been plummeting, and energy or the shortage of energy has been taking its lumps as well and in fact is the motivating factor.

So do not get the idea that these companies as such are making money and do not get the idea that these companies as such are paying taxes. The stockholders make whatever money there is to be made and the consumers pay whatever taxes are paid; just remember that. These companies do not in the final analysis pay them. The consumers pay these taxes.

But what some cannot understand is that as far as energy is concerned price is related to supply. Supply and demand still work. We have got to understand that simple fact if we are going to do anything about providing for a decent supply of energy.

Now, think about it in any way you care to; but except for the vertical integration of these so-called giants that have been referred to here today, we would be paying a lot more for a gallon of gasoline than we are paying today. If we break them up, we are going to pay a lot more, make no mistake about that.

What some cannot seem to understand, is that there is not an oil company today that has the resources to build one single refinery, except they go and borrow that money—\$400 million, \$500 million, \$600 million, \$700 million, \$800 million, to build a modern refinery today. We either let them make the money and let them do the best they can with the profits they earn or we will have to create a national energy bank to finance that operation. It is that simple. They do not have the money.

This substitute ought to be adopted, if you believe in the free enterprise system.

Mr. KEMP. Mr. Chairman, I would like to compliment the gentleman in the well for his remarks and his faith in the efficacy of free enterprise.

There was a statement made earlier about oil profits at about \$1 billion or \$2 billion in the year 1973.

I would like to point out, that every objective prediction about the amount of capital needed in the next few years to develop new sources of gas and oil, is talking in terms of billions of dollars in fact, tens of billions of dollars for research and development are needed.

So the gentleman is eminently correct and I am going to support his amendment.

Mr. WAGGONER. Gentlemen, remember this in closing. This substitute that strikes the language of **section 117** speaks to the question of reasonable profits and it mandates the President of the United States, the administration, to send within 60 days after the enactment

of this act, legislation to provide for control of excess profits. This is better, it is at least workable and it is something that if we have any sense of equity we are going to support.

Mr. Chairman, I just have trouble believing that we could say we will take it in the instance of coal and reject it in the instance of the rest of the business community.

Mr. Roy. Mr. Chairman, I rise in opposition to the amendment.

I appreciate the impassioned plea of the gentleman who preceded me on behalf of the big oil companies. I cannot help but observe when I look at the proposed substitute for **section 117** that those who offer it are not satisfied with deleting **section 117** alone. Indeed they would like to legitimize the huge profits of the large oil companies. They do this, of course, by saying that they shall be permitted to make no more than reasonable profits and then they add the criteria for distinguishing reasonable profits, taking into account those profits necessary for reinvestment, for research and development, exploration and so forth.

I would submit that if we look at the history of the large companies, we are looking to a future never-never land when we can anticipate such reinvestment. If our experience in the past is any guide to the future, this type of reinvestment will not happen. Just as the great oil companies fought to retain the oil import quota when foreign oil was cheap and plentiful, they will fight the development of alternate fuels. Just as they stopped building refineries in this country in the mid-1960's, they will curtail and abandon any investment plans they have announced only in recent months.

In fact, at a recent meeting of the American Petroleum Institute just 3 weeks ago, several companies announced indefinite postponement of previously announced refinery construction plans. They allege that they are backsliding, because of the Arab oil embargo.

To hear the gentleman who preceded me in the well, one would think there is no definition of reasonable profits in **section 117**. There is such a definition. I would submit to my colleagues that they are going to have the opportunity to choose between the definition of the language in the substitution of Mr. Broyhill of North Carolina, which indeed legitimizes huge profits for the oil companies, and the definition in **section 117**.

In **section 117** it states:

"(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

"(i) the reasonableness of its costs and profits with particular regard to volume of production;

"(ii) the net worth, with particular regard to the amount and source of capital employed;

Listen to this, please—

"(iii) the extent of risk assumed;

"(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

"(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

"(B) the greater of—

"(1) the average profit by all sellers for the particular item during the calendar years 1967 through 1971; or

I have, and will submit for the Record here, the profits of the giant oil companies during the years 1967 through 1972. Exxon, for ex-

ample, returned on net worth 13 percent in 1967; 13 percent in 1968; 10.4 percent in 1969, and so forth, with 12.5 percent in 1972.

Texaco returned profits on percentage of net worth of 15.3 percent in 1967; 13.1 percent in 1969; 12.4 percent in 1972, and so forth.

There is a choice for each of us to choose between what we would like to tell our constituents we consider to be reasonable profits. Is it what Mr. Waggonner spoke about? Is it some profit standard which is totally nebulous whereby presumably we anticipate that the giant oil companies will take their profits, as recently described in Newsweek in a section entitled "A Gusher of Profits," and put these profits into exploration and production of new resources, or is it indeed the very, very good criteria within **section 117** which include not only return on investment, but also rich and past experience—

Mr. WALDIE. Mr. Chairman, thinking back in history, there was a time when the private energy industry refused to provide energy to an area of this country, because there was not sufficient profit in providing that energy, and to meet that need the Congress created a public energy corporation, the Tennessee Valley Authority. It would occur to me then, that there are other options than those provided in this bill, if the private industry does not quickly bring on to the market energy supplies that they are holding back for an exorbitant profit. I think the people will demand such solutions and they will occur if the energy industry persists in its selfish, greedy, and unpatriotic pursuit of the almighty dollar at the expense of the people, their health, their comfort, and their jobs.

Mr. ROY. Mr. Chairman, I want to point out to the committee that **section 117** directs the President, under the authority of this act and the Economic Stabilization Act, to specify prices for the sale of crude oil, refined products and residual fuel oil which will avoid windfall profits.

Mr. Chairman, I would like to remind the committee, as the Members make this choice between reasonable profits as now defined by **section 117** and as defined in the amendment by the gentleman from North Carolina, that only this week it was announced that the price of gasoline will go up 6 to 7 cents per gallon, and heating oil will go up 8 to 9 cents per gallon, and that the major oil companies in the third quarter of 1973 have profits 52 percent greater than during the similar quarter of 1972.

This has already been stressed before the committee, but when we look at Exxon, we are talking about 1971 third quarter profits of \$357 million; 1972 profits of \$353 million; and profits which in 1973 soared to \$638 million, an increase of 91 percent over 1972's already generous profits.

Mr. ECKHARDT. Mr. Chairman, one thing that has bothered me about the remark of the gentleman from Louisiana about the oil companies not being able to build refineries on the basis of their profits is this:

I have before me a report of the First National City Bank of New York of April 1973, which indicates that the percent return on the net worth in the petroleum production and refining industry is 10.8 percent.

Comparatively, the figure with respect to textile products is 7.8 percent; paper and allied products, 8.7 percent; iron and steel, 6.2 percent; and aerospace 8.8 percent.

I note that the return on net worth is considerably higher with respect to the petroleum industry.

Would the gentleman not feel that would be a means by which that industry could get enough capital in order to build its refineries?

Mr. ROY. Mr. Chairman, I certainly agree with the gentleman from Texas that the capital for the building of refineries certainly should be forthcoming within the industry which has such copious profits.

Let me also point out that the second section of the amendment, under "(b)" states that "not later than 60 days after the date of enactment of this act the President shall submit to the Congress legislation necessary to further achieve the purposes of subsection (k)," and so forth, not only to accomplish the already real legitimized huge profits desired in the first section, but that he shall bring forth a proposal for "additional incentives" in order that the oil companies may make additional moneys.

Mr. Chairman, I ask the Members to vote "no" on the Broyhill amendment. I remind the Members that today is the day to act as far as the huge windfall profits being made by the major oil companies, and that we cannot wait for 60 days, plus the time required for action of the Congress, and that we, above all things, should not endorse the huge profits and adopt the idea of increasing huge profits for these companies.

I understand the great sympathy the gentleman has for the huge oil companies. I hope that the majority of my colleagues do not share that sympathy.

The tables referred to follow:

PROFIT MARGIN AND RETURN ON STOCKHOLDERS EQUITY, 1967-72

[In percent]

	1967	1968	1969	1970	1971	1972
Exxon:						
Profit margin.....	9.3	9.1	7.0	7.9	7.8	7.5
Return on net worth.....	13.0	13.0	10.4	12.0	12.6	12.5
Texaco:						
Profit margin.....	14.7	15.3	13.1	12.9	12.0	10.2
Return on net worth.....	15.3	15.4	13.1	13.1	13.4	12.4
Shell:						
Profit margin.....	9.3	9.4	8.2	6.6	6.3	6.4
Return on net worth.....	13.8	12.3	10.9	8.6	8.7	8.9
Standard Oil of California:						
Profit margin.....	12.8	12.4	11.9	10.9	9.9	9.4
Return on net worth.....	10.8	10.7	10.2	9.8	10.4	10.5
Mobil:						
Profit margin.....	6.7	6.9	6.6	6.6	6.6	6.3
Return on net worth.....	10.0	10.5	10.1	10.6	11.2	11.2
Gulf:						
Profit margin.....	13.8	13.7	12.3	10.2	9.5	3.2
Return on net worth.....	13.1	13.2	12.1	10.4	10.2	3.6
Atlantic-Richfield:						
Profit margin.....	10.2	10.5	8.4	7.5	6.3	5.9
Return on net worth.....	10.2	11.0	8.4	7.4	6.9	6.6
Standard Oil of Indiana:						
Profit margin.....	9.7	9.6	9.3	8.4	8.4	8.3
Return on net worth.....	9.5	10.1	10.0	9.3	9.6	9.9
Sun Oil Co.:						
Profit margin.....	9.4	9.2	8.3	7.2	7.8	8.1
Return on net worth.....	10.6	10.8	9.4	8.4	8.8	8.8
Union Oil of California:						
Profit margin.....	10.3	9.8	9.2	6.3	5.8	5.8
Return on net worth.....	11.2	11.0	10.5	7.6	7.4	7.6

Source: Fortune 500 magazine, 1968-73 issues.

INDUSTRY AVERAGE

Profit margin.....	8.6	8.3	8.3	6.9	6.3	6.0
Return on net worth.....	11.2	11.8	10.5	10.3	9.0	9.4

Source: Fortune 500 magazine.

5-YEAR INDUSTRY AVERAGE, 1967-71

Profit margin.....	7.7
Rate on net worth.....	10.6

Mr. GOLDWATER. Mr. Chairman, I rise in support of the Broyhill-Waggonner amendment.

My concern with the bill that we are considering here today is that we seemingly are attacking only one side of this problem: The allocation of a scarce resource.

Now, if we do not provide the resources, or if we do not provide the wherewithal to increase the supply of this scarce resource, then we will continue to allocate, to ration something that is declining down to zero.

It seems to me that the wording of **section 117** in this bill is mischievous, to say the least. I wonder if any of the Members have really stopped to read what the language of this section says.

It sets up an apparatus that is going to cause havoc, that is not going to provide that wherewithal to increase the supply.

Subsection (2) says that "any interested person, who has reason to believe that any price" is a windfall "may petition the Renegotiation Board."

Then later it says precisely the same thing:

Upon petition of any interested person, the Board, if it has reason to believe that such a price has permitted such seller to receive such a windfall profit, may order such seller to take such action as it may deem appropriate to insure that sufficient funds may be available for refund for windfall profits.

Now, I submit to the Members that after we get through with all the suits and all the challenges, we will sit here distributing absolutely zero. We are setting up an apparatus that does not deal with the supply problem.

The gentleman from North Carolina pointed out—and I think most of us would agree—that this amendment, as accepted by the Committee, is not germane, and it will be impossible to administer.

Think of it in those terms. The amendment that is offered by the gentleman from North Carolina (Mr. Broyhill) is a reasonable compromise to those who are concerned about excess profits or windfall profits.

It provides an apparatus which is workable. The apparatus in the bill will just be mischievous and wreak havoc with the supply side of this problem.

Mr. Chairman, this is a good compromise and should certainly be supported.

I have to ask have we really lost sight of how we get the supply to meet the demands of our people for goods and services? Have we turned our backs on the creative nature of Americans which produce the highest standard of living in the world? Have we forgotten the

supply of energy or anything else is directly related to the expenditures made to produce it?

Certainly it ought to be obvious that the energy industry cannot invest enough if money is not available, and money will not be available if profits are not adequate. It has been estimated that in order to meet the increased demand we will see in the future we will have to increase these profits on capital investment an average of 18 percent per year. Oil companies, of course, are going to reap a large profit, but, gentlemen, we have ways of dealing with that. If we adopt the Broyhill amendment, we will have a sensible approach to keeping tabs on the excess profits.

Profit pure and simple would be incentive enough to get many of these energy companies going out—in fact, racing out—in order to create the supply to meet the demands of this country. There seems to be—and commonsense will certainly tell us there is—a direct relationship between profits and capital and supply. If those profits are too small, there will not be enough energy. It is that simple.

Mr. ROY. May I ask this question: Is it not true that **section 117** as presently constituted provides for a decision on the record by the Renegotiation Board, No. 1, and, No. 2, it also provides for judicial review of such decision?

Mr. GOLDWATER. Certainly reading the language of the amendment offered by the gentleman is confusing enough in itself. There are provisions, I am sure, for relief, but I think the amendment adopted by the committee is mischievous. It will wreak havoc on the supply side.

Mr. STAGGERS. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, I would like to find out if we can have an accommodation on the time. I wonder if we can vote on this amendment in 25 minutes.

The CHAIRMAN. The chairman of the committee asks unanimous consent that all debate on this amendment conclude in 25 minutes.

Is there objection?

Mr. PICKLE. Mr. Chairman, I object. If I am recognized, then I will agree with it.

The CHAIRMAN. Objection is heard.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, everyone in this House knows that the cost of our fuel is going up, and inexorably going to increase probably at all levels. It always happens in times of shortages. I think that would follow and we should understand that probably the profits will increase.

Profits as such ought to be considered and determined by the Committee on Ways and Means. They, the Ways and Means Committee, are constituted for that purpose. The acting chairman of that committee, the gentleman from Oregon (Mr. Ullman) said that they would hold immediate hearings on this subject and try to bring forth some kind of bill that would be fair and reasonable.

This is a matter which affects profits and affects prices; it refers to the Renegotiation Board and to machinery that cannot work with or without judicial review. Here we are talking about a matter of profits which is something that ought to go to a committee which is set up to hold hearings and get the facts on this subject.

I have noticed for the last hour we have done nothing but talk about accusations on what company has made how much profit, or how much they need, or how much coal companies did or did not make. This ought to be established through a series of hearings. The Members know that we should not vote on prejudice. We know that this is true. But we did not have any hearings on profits. This particular windfall profits amendment came out of chute No. 1 late in the evening, without any notice, and a point of order of germaneness against it was not allowed, and it was before us before you could say your name. That is not being fair to our system of Government, to the oil and gas companies nor, indeed, to the coal companies.

However, the coal companies were taken care of this morning, and I voted for that because I do not believe the coal companies ought to be held back. I think they are entitled to an increase.

We had a meeting before our committee not too long ago with a representative of the coal industry, and he admitted that the price per ton of coal would probably go up two or three times within the next 2 or 3 years. And the chairman of the committee, the gentleman from West Virginia (Mr. Staggers), bless his white-grey hair, made a statement to us, and he said that we could not expect our coal people to go out there and dig in the mines or engage in unprofitable strip mining operations unless they are guaranteed a profit, or at least we have to give the companies some assurance that they would expect a return on their investment. And of course the gentleman is right. I do not object, and did not, to the gentleman saying that, because I support what he said. But I do not believe it is fair to say that that should be helpful to the coal industry, but it is not helpful to other industries. I recognize it is a fact that we really need some changes made. And after the first of the year I think with the demand that those that I hear crying out against the companies' profits these people will be on the floor demanding that we do something. I do not know what will happen, but we ought to try to do something about it. We ought to do something about excess profits. I do not know what to expect on that. The gentleman from Arkansas (Mr. Mills), has said that he will attempt to deregulate gas, and I think it will probably come in some kind of excess profits legislation. That is probably where it will come.

The very people who have been arguing against the fact that we ought to keep this in the bill are the very people who on occasion in the last 2 years have been talking in public hearings all over the country that this shortage is contrived, and therefore gas companies do not need any relief in natural gas. They have made that statement over and over. And the people down the street have said before the committee that if we could get a better supply of natural gas now, it would probably ease our shortage more than any other thing, because our problem is brought about by the fact that we have only a certain amount of natural gas, and everybody uses it. Everyone uses all they want to because it is clean, and it is cheap, and it has been getting delivered so everybody can use it. As a consequence, we are about to run out of natural gas, and we are going to have to rely more and more on coal and more and more on other products.

So, Mr. Chairman, I ask the Members—because I know their feelings, but I hope that they have enough good judgment not to be

voting on their prejudices: Give us the means of increasing our energy supplies instead of just voting our prejudices. I do hope the Members do not vote just on the basis of prejudice. I am mindful of the kind of the image the oil and gas companies have and it might be easy for you to vote your prejudices.

Mr. YATES. Mr. Chairman, I oppose the Broyhill amendment. The statistics on the profits of the oil companies that have just been presented to the House by those who have spoken against the amendment depict graphically the dramatic increase in profits of such companies since the shortage of energy fell upon this country and the world. It would be shocking if the House were not to place some limit upon the earnings of such companies. Surely, they should not be allowed to take selfish advantage of the plight of the consumers.

It has been asserted by those who support this amendment that even though prices may rise they will inevitably come down as supply catches up with demand. Perhaps that is true in respect to other industries, but it certainly is not true for the oil industry. The history of the oil business is one of controlled scarcity, scarcity generated by capping wells, by hot-oil legislation, by international agreements, by import restrictions and other devices. The history of the oil business is of one-way pricing—upward, continually upward. There is no downward movement at all.

Renewal of the windfall profits of the oil industry is essential to protect the consumer of this Nation. It is essential to carry on the purposes of this bill that the sacrifices required by this critical time fall equitably upon all segments of our economy and our population. The Broyhill amendment will distort that purpose. It should be defeated.

Mr. PICKLE. Mr. Chairman, my appeal is not to vote for this amendment simply as a vote of one's prejudices. Do not let this vote be a vote against windfall profits when it actually would be a vote of prejudice, and in truth a vote against the oil and gas companies per se.

I ask that, in spite of the fact that I know about the general image the oil and gas companies have in this country today. Somebody said recently, "I guess the lowest group in America today would probably be the present administration." I guess that in all of the polls taken as a group today, they are on the bottom of these polls.

But I say to the Members that I think that would be wrong. I think the oil and gas industry probably has the worst image. For some reason or other, the people think that they are the group that just ought to be "gotten," and they must be on the bottom of any poll.

I am not trying to rate the groups. I suppose before the Members take much comfort in that, the third rating would probably be elected officials, and I think fourth might be the gentlemen up in the gallery. But I guess overall the oil and gas industry has about the worst image of anybody in America. I think it is undeserved. Although they have made big profits, so have A.T. & T. and I.T.T., and I.B.M. and other big conglomerates. That in itself ought not be an indictment against them.

Remember this: They have given us in America and the world the greatest system of delivery of energy of any nation in the history of this world. Although they have shortcomings, and although they

have some weaknesses in the chain, at the same time they, as an industry, are the envy of the world.

Surely we ought not to take action here today just because of prejudice we would want to say we are against profits because to be against windfall profits, that sounds good back home.

I ask the Members to vote fairly, because this amendment that is pending simply says that the President can keep profits to a reasonable amount, and he is directed to give us a recommendation on excess profits legislation after the first of the year.

Mr. DEVINE. Mr. Chairman, I rise in support of the amendment.

Mrs. GRIFFITH. Mr. Chairman, I am not one of those who is suffering on the side of oil, but I rise also in support of this amendment. I think a few kind words should be said for the consumer. From the time of President Kennedy until today, and the time of the Chief Economic Adviser, Walter Heller, until today, there has not been a President nor a Council of Economic Advisers that has not sought the right for the President to levy taxes in some restrained manner. In my judgment, while **section 117** does not give an explicit delegation of power for the levying of taxes, it gives an implicit delegation of power. In my opinion, the President would use it.

As long ago as last summer Secretary Shultz came to the Committee on Ways and Means and asked that we consider the idea of levying a 40-cents-a-gallon tax on gasoline to sock up the price. In my opinion, the President could meet both objectives of **section 117**, by permitting the price to rise to \$1 per gallon and levy a tax of 50 cents. Personally I am opposed to this. I told Secretary Shultz then. I am opposed to **section 117**, I am going to vote to eliminate it because I feel that if we are going to have that kind of tax levy, it should come before this body and we should vote on it.

I heartily support the amendment because I support the American consumer, not necessarily the American oil company. I urge everybody who feels that the power to tax should be left with this body to vote to support the amendment.

Mr. DEVINE. I thank the gentlewoman from Michigan.

Mr. SEBELIUS. Mr. Chairman. I appreciate this opportunity to discuss H.R. 11882, the Energy Emergency Act, legislation that has a direct bearing on the economic welfare of every citizen in my district and for that matter nationwide as well.

I would urge my colleagues to read and acquaint themselves with the separate views of my distinguished colleague from California (Mr. Goldwater) within the committee report.

Our colleague has pointed out the similarity between this legislation and the Economic Stabilization Act authorizing wage and price controls. As Congressman Goldwater points out, it did not take very long before the public became disillusioned with artificial restraints on our economy and that in this case folks will fast tire of any program that calls for indefinite rationing and other Government controls that do nothing to increase our energy supplies. Congressman Goldwater made another astute comparison when he compared this legislation to the proposed freeze on beef prices and the emotional merry-go-round we went through this past summer when some of our well intentioned colleagues proposed to put price controls on all farm products. Price controls on beef sound good to the consumer but when the consumer discover be-

cause of that arbitrary action she cannot purchase beef at any price, the problem becomes much more serious. We can indeed ration and regulate our energy supplies but if we do, in the long run there will not be any energy to ration or control.

I am also very concerned and alarmed in regard to the so-called windfall profits provision of this bill. I do not know of any Member of this body who favors "windfall profits" or possible price gouging by anyone who would utilize or take advantage of the American consumer as a result of our current energy problems.

This amendment in committee has as its purpose to make sure that energy companies do not reap abnormal profits during the current shortage. I submit this is the wrong way to go about safeguarding any exemptions, I can state **section 117** could virtually wipe out the Kansas independent oil and gas industry.

I do not mean to imply that we should not examine and deal with the question of profits by our major oil companies but as my distinguished colleague from Texas (Mr. Pickle) has pointed out in his separate views in the committee report on this bill, the windfall portion of this bill was proposed and adopted in less than half an hour without the benefit of full discussion and hearings.

Congressman Pickle recommends that if price gouging and windfall or excess profits are a proven fact then the Ways and Means Committee could and should legislate taxes that would take care of the public's need. I strongly agree.

Let me be specific. In my home State of Kansas almost 40,000 stripper wells produce 69 percent of the State's oil, some 51 million barrels in 1972. Yet, 1,356 were plugged in 1972 because they failed to reach the break-even point. During the past 5 years, almost 9,000 were plugged for the same reason. The conclusion is obvious, producers must have sufficient capital to increase supply as well as the delivery means to meet our energy demands.

Yet **section 117** defines "normal profits" as average profits over the period from 1967 to 1971; the same depression period in which we have seen some 9,000 stripper wells plugged. When you fix profits to a depression level, obviously any increase would appear to be excessive. This action also fixed discovery potential and in turn, supply to this same depression level and that is precisely what had caused the problem.

I am also most concerned over the language of this bill [**Sec. 117**] that allows any citizen to file a class action complaint that would result in alleged "windfall profits" to be placed in escrow subject to determination by the Renegotiation Board and possible judicial review and action. If I understand the language of this section this procedure would apply to the producer or seller of all petroleum products even to the extent it would include a small filling station operator.

Judging from the emotional nature of this issue I can imagine a situation where any angry motorist could file a class action suit against his local service station operator. Lawyer fees alone could wipe him out. I think it is obvious that if we tie up profits through class action complaints and put them into a bureaucratic and legal deep freeze, we are also tying up capital that could be utilized for discovery, drilling, and increased supplies.

Mr. Chairman, while it is obvious we must expedite action in the Congress to find answers to our energy crisis and while I believe certain items in the bill we are considering should be passed in some form, I am most concerned over the approach we seem to be taking.

More and more, it seems to me, we are taking our system of free enterprise down the road to "big brother" government wherein we subject American business to arbitrary, punitive, and regulatory regulations and controls. It is just as important for bad legislation not to pass as it is for us to carefully consider and enact good legislation. I do not believe we can protect the American consumer and increase our energy supplies by subjecting the oil and gas industry and related businesses to this kind of legislation.

I do not question the intent of this section but I feel it was ill-conceived and hastily written by those lacking full understanding of this complex problem.

The practical effect of **section 117** would be to virtually close down the oil and gas industry in Kansas. The long-range effect of this type of legislation could well lead us to a government controlled economy in which the consumer is confronted by a nightmare of controls, bureaucracy and redtape and precious little consumer goods and sources.

Mr. Chairman, when the high cost of food triggered an emotional response to control farm prices we fortunately prevented that legislation from passing. As a result, our farmers are economically free to do what they do best—produce and feed this Nation. It seems to me we should do the same for our oil and gas industry.

Mr. Chairman, I support the amendment offered by the gentleman from North Carolina (Mr. Broyhill), and hope that it passed.

Mr. DU PONT. Mr. Chairman, earlier this afternoon on rollcall No. 662 I erroneously voted "no." It was my intention to vote "yes," and I wish to correct the record to show that my vote on rollcall No. 622 was "yes."

I support Mr. Dingell's amendment to prohibit petroleum allocations for the purpose of schoolbusing to achieve racial balance. My initial vote was cast erroneously because the text of the amendment in my hand at the time was not the same as the text of the amendment being voted upon.

Mr. CARNEY of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it seems very strange to me as a relatively new Member of this body who mostly sits aside, and observe the pattern of things—I have noticed that when there is something on minimum wage for some little guy, we see certain gentlemen rise and fight very strongly. They say we would destroy the American way of life to give some little guy a minimum wage.

Once we try to do something about excess profits and to control them, then of course we are said to be tampering with the American way of life.

Thank God the people in this country are becoming a little better educated. I for one agree with a great many political scientists that perhaps we may be needing reform of the two-party system of this country.

Maybe we had better get together some of those who want excess profits. Get them together from both sides of the aisle, and then get together those from both sides of the aisle who want to do something for the little people of this country. Maybe we had better get them together.

I am not opposed to people making a fair profit but when we get up and just decry the situation when there is evidence before us that certain groups have made all kinds of profits and have someone say they have not made a thing, and that we should let them make it, I question that.

They say if we want energy power we are going to have to pay for it through the nose. I still think the people have something to say about the way this Government is run. I am telling the Members that we are sitting here and worrying about the producers, but I do not see many people getting up and talking about the man who wants to go to work or who wants to provide heat for his kids. We are not talking about that. We are talking about profits.

We are not getting to the meat of the problem. The American people want some answers. They want some heat in their homes. They want to be able to get back and forth to work. They want some of those answers.

But what do we worry about? We worry about how much profit the oil producers will gouge out of us. I hope it goes on the Record. I hope there is a rollcall vote. I hope the things I do get out to the common people and then we can think about the common Joe and give him some gas instead of worrying about all kinds of ways of making excess profits for the greedy.

If we do this the American people will be thanking us.

My friend, the gentleman from Texas, said we are second or third from the bottom of the list. If we do not wake up we will be at the bottom before long. Let us give the people what they want. Let us give them more energy and let us do it now. Defeat the Broyhill amendment.

Mr. Chairman, I want to clarify an amendment I offered to the "Energy Emergency Act" in the Interstate and Foreign Commerce Committee, which is now **section 110** of H.R. 11882.

When I offered my amendment in committee to make it unlawful for any person engaged in the business of marketing or distributing diesel fuel to deny full fill-ups of fuel to trucks on bona fide cargo runs, it was not my intention, nor do I believe that it was the intention of the committee in adopting this amendment, to deny fuel to diesel passenger vehicles, or to make it impossible for diesel fuel automobile owners to obtain fuel for their vehicles.

According to Environmental Protection Agency studies, diesel fuel passenger vehicles now meet the most stringent emission control standards and show a 70-percent greater fuel economy than comparable gasoline vehicles. Therefore, diesel fuel passenger vehicles should not be penalized more than gasoline passenger vehicles in the allocation of fuel.

Mr. STAGGERS. Mr. Chairman, I rise again to make a unanimous-consent request to see if we can get a consensus of opinion on the time.

Mr. Chairman, I ask unanimous-consent request that all debate on this amendment close in 25 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BROYHILL of North Carolina. Mr. Chairman, reserving the right to object, and I shall not object, I would urge Members to limit debate because we do have a number of amendments at the desk and I think within 25 minutes we are going to be able to dispose of this amendment and have the Members be heard.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair will recognize Members on the list for approximately 1 minute.

Mr. SKUBITZ. Mr. Chairman, I support the Broyhill amendment as the only practical and reasonable method of preventing windfall profits from the production and sale of petroleum and its products. It provides a proved means of recapturing such profits through our taxing system and makes certain that a few may not benefit from the scarcity now upon us.

It is time to make clear, Mr. Chairman, that many of us, and most especially this Member, are as strongly opposed to windfall profits as those who support the amendment proposed by my colleague from Kansas (Mr. Roy) and that will be considered as a committee amendment, **section 117**. I do not want any corporation, whether it is a giant integrated oil company whose pumps sell gasoline to the public, or an independent operator, benefit unfairly and improperly from current and forthcoming high prices for gasoline, diesel, heating oil, and other products.

The incongruity of the committee amendment designed to eliminate windfall profits is amazing. The same committee which carefully considered, reported out, and secured House floor approval of the mandatory allocation bill a scant 2 weeks ago; a bill that lifted allocation controls and price controls from small producers in an effort to spur domestic oil production; that same committee now proposes an amendment, **section 117**. I do not want any corporation, whether it is a giant small producer any incentive to open capped wells, drill new wells, and bring about greater domestic production.

I simply fail to understand the logic of my colleague's (Mr. Roy) position. In one case he supported legislation that would help our Kansas oil producers. I must remind him that more than 90 percent of Kansas oil production is from stripper wells whose average production is slightly more than three barrels a day. The stripper well amendment encouraged additional production by permitting these producers to obtain the going market price. Indeed, in the last few weeks Kansas newspapers have reported a boomlet in oil production plans—the first in more than a decade.

Now, he seeks the enactment of an amendment that would limit those producers to the profit—I hesitate to use that word since there was virtually no profit—to the profit those producers obtained during the period 1967 through 1971. That base insures that in the case of

Kansas producers, and indeed in the case of all stripper well production in the United States, there will be no reason to look for more oil.

Indeed, it may well assure that existing production should be shut down since the measurement for profit will be such as to make meaningless the current market price for crude oil. In short, the seller may now obtain \$5, or \$5.50 or even \$6 a barrel for oil but his base for determination of what he may retain will approximate \$3.90 or less per barrel.

The language of the committee amendment before us, is in some respects almost beyond belief. As written it would permit the operator of any filling station to be brought before the Renegotiation Board by the buyer of 1 gallon of gasoline at his pump on the complaint that the price charged for that gallon of gasoline resulted in a windfall profit. Of course that in itself is a bit ridiculous but since class action suits are permitted and encouraged, such a suit by a single buyer in behalf of all who bought gasoline from that filling station is certainly within the realm of possibility.

I repeat that no one—not the Government through a tax to discourage use of gasoline; not the oil companies through raising prices for their product—no one, I repeat, should be permitted to benefit from this energy shortage at the expense of the user who is not responsible for the shortage. As usual, the little guy, the average user, is the fall guy. He has a right to object if any are to profit at his expense.

Thus, we should deny windfall profits to all in the industry. But the way to do that is through an excess profits tax. It is easy enough to determine the profitability of oil producers—whether huge integrated corporations or individual stripper well lessors—through the Internal Revenue. It is easy to draw an excess profits tax provision. The Broyhill amendment makes clear that within 60 days the President shall recommend such a provision. I have little doubt that the IRS is more capable of preparing an effective taxing statute than we of the Interstate and Foreign Commerce Committee. Nor do I have any doubt that our own Ways and Means Committee can and will do that job capably and expeditiously.

Mr. Chairman, I urge adoption of the Broyhill amendment defeat of the committee amendment proposed by my colleague from Kansas (Mr. Roy).

Mr. WAGGONER. Mr. Chairman, before we vote on this substitute for **section 117**, it behooves us to just stop and think about what the bill tries to do in **section 117** and what the substitute amendment proposes to do.

Now, the supporters of **section 117**, as contained in the bill, say that we ought to do something to limit windfall profits. Again I am redundant, but I want to remind Members again that there is no way that the Renegotiation Board, which only has authority under the law to renegotiate supposedly excess profits when an individual has a contract with the Government and only then a negotiated contract. Any interested individual can file a complaint about supposedly windfall profits. Hearings are necessary. Judicial appeal is provided for. Mass confusion will result.

How many of us would believe that the courts of this land could even function if we tossed this hot potato from the Renegotiation

Board after they had made a decision which they cannot legally do to the courts?

All this substitute language says is that the President, to the extent practicable, shall exercise his authority under this act which we are going to give him and under the Economic Stabilization Act of 1970, as amended, which we have already given him, to be sure that companies make no more than reasonable profits. But, if we really want something in the way of an excess profits tax, it is provided for in the second paragraph of this substitute language, and it is not provided for in the committee bill.

The President is mandated to bring, within 60 days of the enactment of this act, a legislative proposal to the Congress to further achieve the purpose of paragraph 1 of this substitute language, which says:

Don't let anybody make more than a reasonable profit.

And, in attempting to define what windfall profits are, the committee itself sent a bill to the floor which uses the term "reasonable."

Now, we either want it to work or we do not; we either want to be fair or we do not. Let us treat everybody alike. We have already removed coal from this provision; let us treat oil, the suppliers of energy, in exactly the same way.

But, if we are not going to be shortsighted, remember this: Refined petroleum products are in time going to be produced in ever-increasing quantities, and the products, the byproducts, refined products of coal will still, even though coal is not in the bill at the present time, be subject to the provisions of this supposed effort to limit windfall profits.

Get rid of the idea which the gentleman from Ohio (Mr. Carney) threw out for us to think about. This bill does not provide one barrel of oil, one drop of energy of any sort. This bill is intended to provide a means whereby we, if we do certain things, can conserve as well as provide for energy allocation. We have already heard earlier today that the oil companies own a certain percentage—25 percent, the figure was—of all the coal in this country. We are not going to keep a good business in a free enterprise system from being able to succeed, and we had better believe that these people in the oil business today are deserving of the dollars they have made, few though they be, because 77 percent of all the energy we utilize came from oil and gas last year.

Mr. JOHNSON of Colorado. Mr. Chairman, I would like to direct a question to the gentleman from Washington (Mr. Adams) who has the remaining time. He will probably have to do this during his own time.

Yesterday, during the debate with respect to the Brovhill amendment, several Members talked about giving the President the authority to pass down rules and regulations with respect to conservation of energy that would become law unless the Congress vetoed it after 15 days. The gentleman from Washington, the gentleman from California, the gentleman from West Virginia, and the gentleman from Texas all made very persuasive speeches—I was persuaded by them—that this is not the way we legislate.

Now, we have an amendment, it seems to me, which is on the side those gentlemen were on yesterday. How can they advocate turning over to the executive branch of the Government the taxing policy of

the country? How can they turn over to the President the determination of what constitutes windfall profits? This it seems to me, is totally inconsistent with the position which these gentlemen took yesterday. I have tried to get the floor to ask this question.

Mr. Moss. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. Moss. Mr. Chairman, this does not turn over any taxing power to the President, directly or indirectly. It turns over to an established board that has had many years of operating experience and which is clearly within its competence, to make a determination, and the statements made by the gentlewoman from Michigan were totally inaccurate, as is the inference in the statements the gentleman from Colorado has just made.

Mrs. GRIFFITHS. Mr. Chairman, that is the gentleman from California speaking, and I would like to submit that I have been set a long time on this, and my opinion is just as good as his.

Mr. PRICE of Texas. Mr. Chairman. I thank the gentlemen from the various States for yielding their time to me.

I would like to address myself to a number of the Members who, in my opinion, have been giving the body some erroneous information about the profit picture of the major companies of this country.

It seems to me that there is a great discrepancy between the figures that the gentleman from Kansas (Mr. Roy) gave and the figures that the gentleman from Ohio (Mr. Hays) gave and the figures that the gentleman from Illinois (Mr. Crane) gave this morning with regard to the profits that are made by the companies.

I might remind these gentlemen that 80 percent of this Nation's exploratory wells are drilled by the independent oil producers and drillers in this country and not the major companies of this Nation.

The major part of the taxes is paid by the stockholders of this country, but as they tried to quote the figures today, in my opinion, they misled the debate here today.

I reiterate, Mr. Chairman, that referring to the taxes that were pointed out here in the colloquy today, about how much the major oil companies have paid, we seem to forget that these major companies are primarily the investments of the American people. They are the consumers. They are the ones who are paying the taxes of these major oil companies.

I again reiterate that 80 percent of all oil and gas exploratory wells are drilled by the independent producers and drillers.

Of course, in reference to this bill, if there are excessive profits, there is some question as to who this board is that is going to determine the excessive profits. What education do they have in this area?

In my opinion, I think it will do more to destroy the production of oil and gas in this country than anything we could do.

Mr. Chairman, the time has already passed for the Congress of the United States to face up to its responsibilities to assure an adequate and reliable supply of natural gas for the consumers of the United States. Natural gas, the cleanest burning, cheapest fuel we have in this country has been discriminated against by repressive legislation. Our other primary fuels—coal and oil—are regulated by the laws of supply and demand, subject only to national security considerations. Gas

is regulated by the Congress through delegation to the Federal Power Commission.

In the last 4 years, the FPC has recognized the repressive nature of the decisions of the 1960's, which resulted in lower and lower prices at the wellhead until exploration and development of new reserves was dangerously discouraged—discouraged not only by the prices set, but, more important, discouraged by the absolute uncertainty that faces a person who sells gas in interstate commerce. In only three areas of the country—Permian and Hugoton Anakarko, and Appalachian, Illinois, does that person know how much of his contract price he can keep, and, even then, the FPC can lower his price for the future. In the other areas of the country—vital areas of production like southern Louisiana, including the Federal domain, Texas gulf coast, other Southwest, and Rocky Mountain, the producer has no assurance as to what price he is selling his gas, because the FPC or the courts can order refunds of past moneys collected and reduce the price for the future. FPC rate cases sometimes take 12 years to process—and the clock is still running on court review. How Congress, with its plenary power over interstate commerce, can permit a system which requires a person to deliver a commodity without knowing what he will be paid for delivering it for years and years which have come and gone and which are yet to come, is a mystery, and is probably the result of the lack of a crisis. We have a crisis now, as many of us have predicted, which commands the attention of the Congress. More than a dozen major interstate natural gas pipelines are curtailing service to consumers this winter.

“Curtailing service” is a nice way of saying that consumers are being cut off from gas supplies because there is not enough gas to meet current requirements, much less to add new customers. As factories and schools are closed down, as crops are rotting for lack of process gas, as homeowners are being turned away from coast to coast, we, the Congress, cannot stand idly by and say that the policies of the Natural Gas Act, adopted in 1938 and first applied judicially to producers in 1954, are adequate. Congress must recognize its own failures and those of its chosen instrument, the FPC, and remove the cloud over the sale of natural gas in interstate commerce. Earlier this year, I introduced legislation, H.R. 3299, that would take the FPC out of the business of regulating the sale of natural gas in interstate commerce—directly, or as Federal agencies sometimes do, indirectly. Market forces would control the sale of gas by producers—both independent producers and affiliates of pipelines who, in desperation, are competing for leases so new supplies can be attached for use by consumers. For gas now being sold in interstate commerce the existing contracts could, for the first time, be honored as the parties negotiated them in the first place, but which have been overridden by the FPC. Gas sold in the future would be regulated by the contracts, not by the FPC's judgment as to what a contract should contain. Thus, the disincentives of regulation would be removed, and there would be no regulatory impediment to exploration and development of reserves. The consumer would benefit in expanded gas supplies from assured domestic sources and at a price far cheaper than the exotic alternatives of freezing gas in Algeria or Russia and transporting it by tanker to our shores at a cost of \$1.30 a million cubic feet up, as compared to the current average price under regulation of

about 0.20 per million cubic feet. The FPC has already approved a base load project of Algerian LNG for our east coast, and that is not all. Also at a cost of \$1.30 a million cubic feet and up, pipelines are turning to manufacturing synthetic gas from naphtha and natural gas liquids, thereby threatening to increase the shortages of vital feedstocks for manufacturing. How the FPC can hold the wellhead price on an area rate basis to 26 cents in south Louisiana and, at the same time permit gas to be sold at \$1.30 a million cubic feet from a plant is explained by the way the Natural Gas Act has been construed, but the result is intolerable to the American consumer. I urge the Congress to join me in enacting this amendment which will allow natural gas to compete on equal terms with oil and coal in the interstate market. By turning our free enterprise system loose, private industry will solve this problem quicker than all of the Government regulations we can pass into legislation.

Mr. KEMP. Mr. Chairman, I compliment the gentleman from Texas (Mr. Price) on his remarks and join him in urging the deregulation of natural gas at the wellhead.

It seems appropriate, Mr. Chairman, as we proceed with this amendment, to examine carefully some of the major points around which this debate is centering. I refer, specifically, to the concern over profits and the efficacy of deregulation of fuels such as natural gas.

Much of the debate today has centered on profits. Somehow, there seems to be some taint attached to the word "profits," as if they were some evil product to be disdained by good citizens.

I cannot help but say that I regard this as most unfortunate. There is nothing wrong with profits, per se.

Without profits, there can be no surplus funds from which to increase production by reinvestments of capital.

Without profits, there can be no surplus funds from which to meet employees' salary boosts.

Without profits, there can be no funds from which to pay investors whose hardearned dollars provide the financial backbone for our industrial system and the diversity of investors which, in itself, helps to distribute personal income more evenly among our people.

Without profits, there can be no incentives for businessmen, from the mom-and-pop grocers to major producers, to go into business, thereby creating jobs and incomes for others.

Profits are incentives to production. Profits are the means for capital formation requisite to the production of additional personal income for our people.

We should, therefore, not look upon profits as some evil but rather as a vehicle through which we can resolve a great measure of this energy crisis by stimulating production.

What are the facts about profits in petroleum industry?

Historically, the petroleum industry's profitability has been lower than the average for all manufacturing industries.

Based on comparative studies by the First National City Bank of New York,¹ over the last 10 years, 1963 through 1972, net income as a percent of net worth in the petroleum industry averaged 1.8 percent.

¹ First National City Bank, Monthly Letter, April of each year.

For the same period, the ratio for all manufacturing industries in the bank's survey, averaged 12.2 percent. See table I. For more than half of this period, 7 out of 10 years, the profitability of the petroleum industry was lower than the all-manufacturing average. Of particular significance for current analysis is the fact that the petroleum industry's rate of return has been on an almost uniform downtrend since 1968, dropping to a 10-year low in 1972. In that year, the petroleum industry's rate of return was 10.8 percent, as compared to a manufacturing average of 12.1 percent.

Turning to the more recent record, according to the latest Federal Trade Commission report,² petroleum industry profits for the four quarters ending in June 1973, were 10.5 percent above the comparable year-earlier period. Over the same two annual periods, profits of all manufacturing corporations increased by 28.1 percent. See table II.

In terms of the critical yardstick of profitability, petroleum industry profits as a percent of stockholders' equity has grown from 9.2 percent to 9.6 percent, between these two periods, an increase of .4 percent. Over the same time span, average manufacturing profits have risen from 10.0 percent to 11.8 percent, an increase of 1.8 percent.

These data make clear not only that the rate of return in the petroleum industry is substantially below that of the average for all manufacturing corporations, on an absolute basis, but that manufacturing corporations generally have increased their profitability, in the past 2 years, by more than four times the rate for petroleum refining.³

Assertions as to the growth of petroleum industry profits have been based on comparisons of individual quarterly results in 1973 and 1972. The fallacy underlying these comparisons is that petroleum profits were falling to a 10-year low in the 1972 base periods, while average manufacturing profits were rising. Hence, the ostensible quarterly growth in petroleum profits actually represents recovery from depressed profit levels rather than real profits trends.

These misleading statements have frequently attributed the rise in petroleum profits to unwarranted increases in petroleum product prices. But such price increases as have been allowed by the Cost of Living Council have been based on fully documented increases in costs, particularly the sharply rising costs of imported crude oil and products. For example, in recent months the landed costs of imported crude oil have risen to more than \$7 a barrel, while No. 2 home heating oil has ranged from 35 cents to 45 cents a gallon.

The damaging consequences of distorted allegations of high petroleum profits is that they divert attention from the large capital expenditures that are needed to assure the Nation of reasonable self-sufficiency in oil and gas resources. According to estimates by the Chase Manhattan Bank, the domestic capital requirements of the petroleum industry over the 15 years, 1970 to 1985, will total \$220 billion.

² Federal Trade Commission, "Quarterly Financial Report for Manufacturing Corporations," Washington, D.C.

³ Profits in petroleum refining include the integrated profits of corporations engaged in refining and other phases of petroleum industry operations.

TABLE 1.—NET INCOME AS A PERCENT OF NET WORTH: PETROLEUM, OTHER SELECTED INDUSTRY GROUPS, TOTAL MANUFACTURING AND TOTAL MINING 1963 THROUGH 1972

Industrial groups	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972 ¹	10-yr average 1963-72
Drugs and medicines	18.7	19.8	21.2	22.5	20.3	19.8	17.7	18.8	19.0	19.7	19.5
Soap and cosmetics	16.9	17.6	17.0	17.9	19.4	18.9	18.6	18.7	19.3	20.4	18.7
Instruments, photo goods, etc.	13.4	16.6	19.2	21.2	20.3	19.2	18.7	15.8	15.4	16.8	17.6
Office equipment and computers	18.0	17.9	18.7	18.1	17.8	19.0	17.4	13.9	12.5	13.8	15.8
Autos and trucks	19.6	19.9	23.4	17.8	12.0	16.6	13.8	5.8	15.0	17.2	15.6
Tobacco products	14.0	13.4	13.3	13.9	14.8	14.6	14.6	16.4	16.6	16.2	14.9
Printing and publishing	12.4	14.6	16.9	17.9	15.4	14.9	14.8	12.5	12.6	13.7	14.3
Household appliances	12.8	14.1	15.0	15.0	14.7	14.0	13.5	11.9	12.1	15.4	13.8
Clothing and apparel	12.0	13.6	16.3	16.2	13.6	15.7	13.3	10.7	10.8	11.1	12.8
Electrical and electronic equipment	10.7	11.1	14.8	16.7	15.4	14.1	13.0	10.1	10.7	13.0	12.7
Dairy products	11.2	12.2	12.5	12.6	11.8	11.7	11.8	12.0	12.6	12.6	12.1
Chemical products	13.2	14.2	15.4	14.6	11.5	11.7	11.4	9.5	9.7	11.3	12.0
Automotive parts	11.4	12.2	13.4	14.0	11.4	12.6	13.0	8.9	10.4	13.1	11.9
Lumber and wood products	8.1	11.5	11.5	11.0	9.4	14.1	15.2	10.2	11.2	13.9	11.9
Petroleum production and refining	11.5	11.5	11.9	12.6	12.8	13.1	11.9	11.0	11.2	10.8	11.8
Glass products	11.6	12.1	13.5	12.7	11.1	11.9	12.2	9.0	11.1	12.5	11.7
Farm, construction equipment	9.4	13.7	14.4	14.7	10.9	8.4	10.4	9.3	8.8	12.1	11.1
Aerospace	11.7	13.1	15.4	15.7	13.4	13.9	11.4	6.7	6.3	8.8	11.0
Rubber and allied products	9.9	11.4	11.8	12.8	10.8	12.7	11.1	7.6	9.8	11.7	10.9
Nonferrous metals	7.1	9.2	11.8	15.7	11.4	11.1	12.5	10.6	5.0	7.2	10.0
Distilling	7.9	8.5	9.6	10.4	10.5	10.2	10.4	10.1	10.3	10.7	9.9
Building, heating and plumbing equip- ment	6.4	8.9	10.6	12.0	11.3	11.3	8.5	7.0	8.4	11.6	9.6
Paper and allied products	9.2	10.5	10.5	11.8	9.5	10.7	10.3	7.4	5.6	8.7	9.2
Textile products	7.1	8.9	11.6	12.3	8.8	9.8	8.8	6.4	6.6	7.8	8.7
Iron and steel	7.3	9.0	9.6	9.4	7.4	8.5	7.4	4.6	4.6	6.2	7.3
Total mining	9.1	10.4	12.1	13.9	16.2	15.0	12.6	11.7	8.5	9.6	11.7
Total manufacturing	11.6	12.6	13.9	14.2	12.6	13.3	12.4	10.1	10.8	12.1	12.2

¹ Preliminary.

Source: First National City Bank, monthly letter, April of each year, May 1973.

PROFITS

	Petroleum			Total manufacture		
	Actual	Number of companies	Percent change	Number of companies	Actual	Percent change
1963.....	3,920	115	+14	2,280	16,261	+10.0
1964.....	4,239	122	+7	2,328	18,774	+15.6
1965.....	4,638	109	+10	2,298	21,753	+17.0
1966.....	5,175	106	+12	2,279	24,074	+9.0
1967.....	5,696	107	+10	2,292	23,307	-5.0
1968.....	6,128	99	+8	2,250	26,067	+11.0
1969.....	6,087	91	0	2,068	26,650	+2.0
1970.....	5,892	97	-2	2,127	23,413	-12.0
1971.....	6,419	96	+8	2,319	26,971	+13.0
1972.....	6,525	108	+2	2,414	31,959	+19.0
Total increase.....		+66.5				+96.

TABLE II

	After-tax profits (million dollars)		Return on stockholders' equity (percent)	
	Petroleum refining	All manufacturing	Petroleum refining	All manufacturing
1971:				
III.....	1,508	7,538	10.6	9.3
IV.....	1,407	7,980	9.8	9.8
1972:				
I.....	1,287	7,934	8.8	9.5
II.....	1,095	9,633	7.4	11.3
Total.....	5,297	33,085	9.2	10.0
1972:				
III.....	1,296	8,776	8.7	10.1
IV.....	1,478	10,125	9.8	11.5
1973:				
I.....	1,406	10,506	9.2	11.6
II.....	1,671	12,972	10.7	14.0
Total.....	5,851	42,379	9.6	11.8
Percentage change:				
1971/III to 1972/III.....			-14.1	+16.4
1971/IV to 1972/IV.....			+5.0	+26.9
1972/I to 1973/I.....			+9.2	+32.4
1972/II to 1973/II.....			+52.6	+34.7
1971-72 to 1972-73.....			10.5	+28.1

I addressed this Chamber in yesterday's session on the need to resolve the present energy shortages in the most immediate way—by an increase in production and supplies stemming therefrom.

Instead of strangling the market economy and the consumer—the little guy—with new Federal programs, regulations, agencies, czars, and bureaucracy, and instead of requiring a mandatory allocation or rationing system or excessive surtaxes, why not increase production?

The answer is increasing supplies, not trying to force our citizens to live with inadequate supplies.

Rationing may treat everyone and every industry on an equitable basis, but that is of little good when the diminished quantities of supplies available, no matter how equitably distributed, are so inadequate that they result in massive shutdowns of industries, layoffs of employees, and, in summary, a crippling of the economy of such proportions that a major recession or even depression is unavoidable. Is this what we want to be held accountable for—that the Congress so misjudged the nature of the energy problem that it felt it more appropriate to try to live with inadequate resources than to produce more adequate supplies?

Natural gas is not the only answer, but it is a very major one.

We need the increased production that only deregulation will bring about. I am interested in the consumers of my district who need more gas and oil. And who do not want to rely on the Arabs.

Mr. FRENZEL. Mr. Chairman, the windfall profit **section 117** of this bill is dreadful. As one Member has just stated, it has the wrong definition of windfall profit, the wrong administrator, and the wrong process.

Under the bill's language, there can be no incentive to produce and sell more energy. We desperately need more energy. We should prevent excess profits, but if we deny reasonable profit, as I think this bill does,

we will also deny ourselves greater supplies of energy. Who will search out and produce new energy if his investment and risk will deliver an unsatisfactory return? But, just as the bill is an overreaction, so the Broyhill amendment may be underreaction.

It does not stand in the place of an excess profits tax. It does not because it cannot. That legislation must come from the committee to which we have given jurisdiction over taxes. But the amendment has a saving grace. It obligates the President to bring legislation to us in 60 days on excess profits, and on reinvestment of profits to increase the energy supply. This mandate has already been answered by the statement of the distinguished minority leader that the President would send up excess profits legislation after the state of the Union message.

It is hard to explain to constituents a vote against a stronger "windfall profit" section, but I suspect it may be harder to explain if the shortages are worse than they need be. Catch phrases do not make good legislation. I shall vote for the Broyhill amendment because the language of this bill is impossible.

Mr. ECKHARDT. Mr. Chairman, I feel the discussion here has more muddled than clarified the meaning of this section. Of course, this section has absolutely nothing to do with taxation; it has to do with profits, yes, but the only time that the Committee on Ways and Means has jurisdiction concerning profits is when it is dealing with such matters as an excess profits tax.

All of our committees deal with profits. For instance, the Committee on Merchant Marine and Fisheries deals with profits with respect to shipbuilding subsidies; the Committee on Banking and Currency deals with profits with respect to interest.

This is merely a provision that the Federal Energy Administrator shall establish provisions preventing windfall profits. Then the Renegotiation Board, if it finds that windfall profits come about anyway, has the authority with respect to particular sellers of crude to make them divest themselves of those profits by simply paying back to those who are overcharged the excess by which they were charged.

There is nothing in this act that could impliedly give the President authority to tax. As a matter of fact, the President cannot even administer the establishment of prices, in the first place, as the bill is presently drawn; this is within the Federal Energy Administration. There is no implication of taxing power. The bill is very carefully drawn to provide administrative process and judicial review respecting exercise of agency powers.

Mr. VANIK. Mr. Chairman, as a member of the Committee on Ways and Means I have looked at the language in the legislation, and I do not see any taxing power either direct or implied. I want to say that I oppose the language of the proposed amendment because all I can see is that the American consumer is going to have to pay about \$15 billion more for energy, and I do not see anything substantial coming into the Treasury. I think if we receive \$2 billion from this industry it will be a great achievement, and that \$13 billion to \$17 billion looks as though it is going to end up in someone's pocket. I think that something ought to be done to direct attention to the excess profit that is taking dollars out of the diet of every American family in this country.

Mr. DENNIS. Mr. Chairman, the chance to make a reasonable profit is what makes production, which in turn ends the shortage, and brings

down the price. These are perfectly plain economic facts. I do not want to characterize any arguments to the contrary as demagogic because that would be unkind as well as unparliamentary. But I think the people whom I represent are plenty smart enough to understand these facts, whether we here are or not.

Mr. ADAMS. Mr. Chairman, this is a simple process whereby reasonable profits will be determined as compared to a base period no oil company has to worry about excess profits, if they put their money into exploration, spend their money on expenses, and charge a fair price. Fair profits thus can be protected. Part of the principle of this section is to see that they make a real effort at exploration, because although we have had the so-called incentive of the depletion allowance for many years, and yet we have a shortage. In the past few months we have seen the oil industry still advertising that there should be more consumption. We have seen them oppose oil imports into the United States to protect their system. All we are trying to do in this proposal is to say to the oil companies put your money into exploration, and you will not have any excess profits that anybody can take back from you under the Renegotiation Board, and you will be in the position where you will be increasing the Nation's oil supply.

There was mention earlier of why some of us are complaining about the supply situation, well we have not been able to force the oil companies to tell us what the country's oil reserves are. We have demanded it, and we have not received it.

Mr. BROYHILL of North Carolina. Mr. Chairman, I sense that every member of this committee wants to do something about what they call windfall profits or excess profits, or profits that are too high. I submit to the members that the way to do it is to vote for my amendment. It is not going to be done with the language which is in this bill because the language which is in the bill is completely unworkable. It is an administrative monstrosity. It sets up conflicts that the courts will never be able to unravel. My amendment says that the President shall exercise the authority not only under this act, but under the Economic Stabilization Act, so as to promise no more than a reasonable profit.

It also calls upon the President to submit recommendations. We can in this House provide for excess profits taxes, if this is what this body wants to do, to provide for incentives, or to provide for a provision that the oil companies put their depletion allowances into further exploration, or whatever they want to do. This is the way to approach this problem.

Mr. STAGGERS. Mr. Chairman. I think the subject has been well debated on each side, and I think most Members have made up their minds.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from North Carolina. Mr. Broyhill, to the amendment in the nature of a substitute offered by the gentleman from West Virginia. Mr. Staggers.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ADAMS. Mr. Chairman. I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 188, noes 213, answered “present” 1, not voting 30, as follows:

[Roll No. 664]

AYES—188

Abdnor	Forsythe	Montgomery
Anderson, Ill.	Frelinghuysen	Moorhead, Calif.
Andrews, N. Dak.	Frenzel	Myers
Archer	Frey	Nelsen
Arends	Fuqua	O'Brien
Armstrong	Gettys	Parris
Ashbrook	Goldwater	Perkins
Baker	Goodling	Pettis
Bauman	Green, Oreg.	Pickle
Beard	Griffiths	Poage
Blackburn	Gross	Powell, Ohio
Boggs	Grover	Price, Tex.
Bray	Haley	Quie
Breaux	Hammerschmidt	Quillen
Brinkley	Hansen, Idaho	Rarick
Brooks	Harvey	Regula
Brotzman	Hastings	Rhodes
Brown, Mich.	Hébert	Roberts
Brown, Ohio	Hinshaw	Robinson, Va.
Broyhill, N.C.	Hogan	Robison, N.Y.
Broyhill, Va.	Holt	Rousselot
Burgener	Horton	Ruppe
Burleson, Tex.	Hosmer	Ruth
Butler	Huber	Ryan
Carter	Hudnut	Satterfield
Casey, Tex.	Hutchinson	Scherle
Cederberg	Ichord	Schneebeli
Chamberlain	Jarman	Sebelius
Clancy	Johnson, Colo.	Shipley
Clausen, Don H.	Johnson, Pa.	Shoup
Clawson, Del.	Jones, Okla.	Shriver
Cleveland	Kazen	Shuster
Cochran	Keating	Sikes
Collins, Tex.	Kemp	Sisk
Conable	Ketchum	Skubitz
Conlan	King	Smith, N.Y.
Coughlin	Kuykendall	Snyder
Crane	Landrum	Spence
Daniel, Dan	Lent	Stanton, J. William
Daniel, Robert W., Jr.	Long, La.	Steed
Davis, Ga.	Lott	Steelman
Davis, Wis.	McClory	Steiger, Ariz.
de la Garza	McCollister	Stephens
Denholm	McEwen	Symms
Dennis	McSpadden	Talcott
Derwinski	Madigan	Teague, Calif.
Devine	Mahon	Teague, Tex.
Dickinson	Mailliard	Thomson, Wis.
Dorn	Mallary	Towell, Nev.
Downing	Martin, Nebr.	Treen
Duncan	Martin, N.C.	Ullman
Edwards, Ala.	Mathias, Calif.	Vander Jagt
Esch	Mathis, Ga.	Veysey
Eshleman	Mayne	Waggonner
Findley	Michel	Wampler
Fisher	Milford	Ware
Flood	Minshall, Ohio	White
Flynt	Mizell	Whitehurst

Wiggins
Williams
Wilson, Bob
Wilson, Charles, Tex.
Winn

Wright
Wylie
Wyman
Young, Alaska
Young, Ill.

Young, S.C.
Young, Tex.
Zion
Zwach

NOES—213

Abzug
Adams
Alexander
Anderson,
Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boland
Bowen
Brademas
Brasco
Breckinridge
Broomfield
Brown, Calif.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carney Ohio
Chappell
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Cronin
Culver
Daniels,
Dominick V.
Danielson
Delaney
Dellenback
Dellums
Diggs
Dingell
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Ellberg
Evans, Colo.

Evins, Tenn.
Fascell
Fish
Flowers
Foley
Ford,
William D.
Fountain
Fraser
Froehlich
Fulton
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzales
Grasso
Gray
Green, Pa.
Gude
Gunter
Guyer
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Harsha
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hicks
Hillis
Holtzman
Howard
Hungate
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kluczynski
Koch
Kyros
Latta
Leggett
Lehman
Litton
Long, Md.
Lujan
McCloskey

McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Mann
Maraziti
Matsunaga
Mazzoli
Meeds
Melcher
Metcalf
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Peyser
Pike
Preyer
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio, Wyo.

Roncallo, N.Y.	Stanton, James V.	Van Deerlin
Rose	Stark	Vanik
Rosenthal	Steele	Vigorito
Rostenkowski	Steiger, Wis.	Waldie
Roush	Stratton	Whalen
Roy	Stubblefield	Whitten
Roybal	Stuckey	Widnall
St Germain	Studds	Wilson,
Sarasin	Sullivan	Charles H.,
Sarbanes	Symington	Calif.
Schroeder	Taylor, N.C.	Wolff
Seiberling	Thone	Yates
Slack	Thornton	Yatron
Smith, Iowa	Tiernan	Young, Ga.
Staggers	Udall	Zablocki

ANSWERED "PRESENT"—1

Rooney, Pa.

NOT VOTING—30

Addabbo	Davis, S.C.	Podell
Bell	Dent	Rooney, N.Y.
Bolling	Erlenborn	Runnels
Burke, Calif.	Gubser	Sandman
Camp	Helstoski	Stokes
Carey, N.Y.	Holifield	Taylor, Mo.
Chisholm	Hunt	Thompson, N.J.
Clark	Johnson, Calif.	Walsh
Clay	Landgrebe	Wyatt
Collier	Mills, Ark.	Wylder

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MOSS TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. Moss. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment (Sec. 115) offered by Mr. Moss to the amendment in the nature of a substitute offered by Mr. Staggers: Page 29, line 12, strike the period and add: "Provided further, That, with respect to allocations of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in foreign commerce."

Mr. Moss. Mr. Chairman, this amendment, I believe, is noncontroversial. It has been discussed by both the chairman and the ranking minority member of the committee.

It is designed to insure truly reciprocal treatment in allocations between U.S. citizens engaged in commerce and foreign citizens engaged in like commerce in their respective ports.

For example, with an airline arriving, we will say, in Japan and being accorded fueling privileges there, we would extend the same privileges to the Japanese. Being denied those reciprocal privileges, we would not so extend them to the other country.

Mr. STAGGERS. Mr. Chairman, I would like to say that I agree with the gentleman's amendment. It certainly complements and would be consistent with the Emergency Petroleum Allocation Act which we passed and which was signed by the President last week.

Mr. Chairman, I am in favor of the amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, we have discussed the amendment in some detail, and, of course, we have seen a number of reports where there have been those who are American citizens who have been unable to fuel up in foreign countries, and it seems to me there should be some reciprocal arrangements here, and that is all we are calling for.

Mr. Moss. Mr. Chairman, I thank the gentleman.

Mr. GOLDWATER. I also support the amendment. I think it does take care of a very critical problem.

Mr. KUYKENDALL. Mr. Chairman, I wish to commend the gentleman.

This has become quite a serious thing, that our carriers have not been able to get properly fueled overseas. I think we are going to have to take this kind of a realistic approach.

Mr. Chairman, I support the amendment.

Mr. GROSS. Mr. Chairman, this would also have the purpose of assuring that any congressional junketeers in the recess ahead would be able to get out and get home, might it not?

Mr. Moss. That might be one of the unimportant consequences.

I risk to ask the gentleman a question which might very well apply to the amendment on this Energy Emergency Act, H.R. 11882.

Is it the Committee's view that this section should be carried out in full consultation with the Department of State to insure that foreign policy considerations are taken into account not only in the cases of Canada and Mexico but also with respect to other countries?

Is it also the Committee's intention that controls on coal exports be fully coordinated with all other agencies having authority for our overall export control program?

Mr. Moss. Mr. Chairman, since this inquiry goes beyond the scope of my immediate amendment, I yield to the Chairman of the full Committee, the gentleman from West Virginia (Mr. Staggers) for a response.

Mr. STAGGERS. Mr. Chairman, in response to the inquiry of the gentleman from Florida, I would like to say that the Committee does not wish to diminish the existing authority of other agencies charged with responsibility for the coordination of either our foreign policy generally or any aspect of our foreign economic policy. All actions of the Federal Energy Administration should be closely coordinated with existing agencies and this is especially true in the area of foreign policy.

Mr. VANIK. Mr. Chairman, I would like to ask a question of the distinguished chairman of the committee.

I have received a call from a gasoline station operator in my district, and he says that under his contract with his distributor he is ordered to stay open 72 hours a week.

Now, my question is: Would the distinguished chairman of the committee consider this as an unreasonable requirement, in view of the State or Federal laws which may reduce the hours of operation?

Mr. Moss. I believe that this is not encompassed in any manner in the amendment now pending, I hope the gentleman from Ohio would seek time at an appropriate point in the bill to direct that question to the chairman.

Mr. Chairman, I ask that the amendment be agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment was agreed to. [Sec. 114.]

AMENDMENT OFFERED BY MR. NELSEN TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. NELSEN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment Sec. 103 offered by Mr. Nelsen to the amendment in the nature of a substitute offered by Mr. Staggers: Page 7, line 21, strike out the first period and the quotation marks.

Page 7, insert after line 21 the following:

"(k) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, or unusual factors influencing use, of the product in this historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act."

Mr. NELSEN. Mr. Chairman, this body will recall that yesterday I offered an amendment that would try to strike the provisions presently used of using the year 1972 as a basis on which to allocate fuel.

Under this substitute, my amendment, which has been redrafted by the staff, uses a historical period and it has been drafted with the idea of giving more fair treatment which may not prevail under present regulations in allocation of fuel to consumers.

I believe this amendment is totally noncontroversial. I have cleared it with the chairman, as I should have done yesterday, and with the staff people. It has been cleared on this side and on the majority side as well, and I hope it will be adopted.

Mr. KAZEN. It is real fine and well for the chairman and the members of the committee to know what is in the amendment, but what about the rest of us? Will the gentleman please explain to us what this amendment does?

Mr. NELSEN. Under the present system of allocation of fuel—I used an example yesterday of a school being built in 1973 which had no history of fuel allocation under the present regulation in which 1972 is the year in which they presently make an allocation. Yesterday

I tried to move it up to 1973 and found there were those who felt that 1973 might be unfair to somebody else. I went to the staff who have come up with the language: "in order to reflect regional disparities in use, or unusual factors influencing use, of the product in the historical period." They set it up so that there is a sort of historical period and they give some flexibility in allocation. I think it would be more fair to more people than the present law.

Mr. KAZEN. Is that historical period a period of a month or a year or a quarter or what?

Mr. NELSEN. The historical period is a period, it is not a specific day or a month, but a period, and this would, of course, give administrative authority for the allocation of fuel.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, yesterday the gentleman had offered the amendment. I would tell the gentleman this: That on the basis of a month, the same amount given this month as was used last year in the same month is very unfair as far as my people are concerned, because my farmers had a very wet November, and they did not use the gasoline last year. This year they were able to use it, but since they did not use it last year during that month they were going to be denied it this year. So, as far as my people are concerned, the year period would work a lot better than a month period.

Mr. NELSEN. I would say to the gentleman from Texas that I would agree with his observation, but under the present system of allocation that is being the problem the gentleman cites is not met. Under the amendment I have now drafted the historical period, and the flexibility it gives in the administration by the authorities in charge, could accommodate the problem the gentleman cites, and the one that I am trying to cure. I am sure we are in agreement.

Mr. KAZEN. I believe we are. The only question in my mind is the difficulty of defining the historical period because these fellows downtown can come up with the darndest answers, and their solutions may not be what this Congress intends for them to be.

Mr. NELSEN. I would say to the gentleman from Texas that this comes much closer to his objectives than the present regulations provide, and as they are administered, it gives the flexibility, and certainly the directive of the Congress, are indicated in this amendment. It does give congressional intent which would propel them to attend to the problems the gentleman from Texas cites, and I am aware of.

Mr. KAZEN. Let me ask the gentleman from Minnesota a question.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me ask the gentleman from Minnesota a question.

Under the bill as it is now written, the substitute that is before us, my understanding is that the base period is 1 year, is that correct?

Mr. NELSEN. Not in the bill. The present law as presently administered, is now established to be the year 1972. It also provides that you go back to the same calendar month to the year 1972 that you are presently asking for this allocation, and in many cases 1 single month presents to the individual whom one is concerned about a very serious situation.

What this amendment will do is to provide that the historical period can be adjusted so other adjustments in allocation can be made so that there is some flexibility. So I hope the people that the gentleman from Texas is concerned about, as well as mine, will be covered.

Mr. KAZEN. I thank the gentleman from Minnesota.

Mr. Chairman, my impression was that under the provisions of the bill, that the gentleman from Minnesota is trying to amend, that there was a base of 1 year, but apparently it is silent on that point. Is that correct?

Mr. NELSEN. If the gentleman will yield, the gentleman is correct. And under the illustration cited before under the amendment this will make them give more attention to the problem the gentleman from Texas cited through the amendment we are now offering to the bill.

Mr. KAZEN. Mr. Chairman, I would ask the gentleman from Minnesota what the effect of the gentleman's amendment is going to be upon the regulations that were just announced yesterday as far as priorities are concerned, and the fact that the first three or four categories will have all the fuel they need, but the people at the bottom will have less fuel? What effect does the gentleman think his amendment will have on that?

Mr. NELSEN. I do not think it will have any effect on that at all. This deals with only what I cited to the gentleman. And I will say to the gentleman that I am as concerned as the gentleman is, and I hope and pray that these adjustments will have the result of doing what the gentleman from Texas wants, and what I want.

Mr. KAZEN. I thank the gentleman.

Mr. TEAGUE of California. Mr. Chairman, I have generally the same problem in my district in California, as apparently the gentleman does, or a comparable problem in that we have some warm winters and some cold winters, and we sometimes have to use orchard heaters. And it is likely that they would have to base the amount of fuel they need for their orchard heaters in December 1973, compared to what they have gotten in 1972. I hope we are making legislative history here. It is the intention of Congress that the period be extended, if possible, to a full year or even more so that equity will be really attained.

Mr. KAZEN. I thank the gentleman for his contribution.

Mr. RANDALL. I thank the gentleman for yielding. We understood that there was going to be some amendment for agriculture and particularly diesel fuel. In this debate the last few days we cannot get the word "agriculture" in edgeways. The gentleman speaks about the historical period. Can we not be specific and say it is going to be December of this year as against December of last year. Are we talking about anything like that?

Mr. KAZEN. I think that what the gentleman is saying is right, but I do not believe that he wants to stick to the same amount for this year in a particular month, as he used in that month last year.

Mr. RANDALL. I thought that was the purpose of the gentleman's amendment.

Mr. KAZEN. No. The purpose, as I understand it, and I think that in the colloquy we made it clear, that it was not to be a month but for a historic period which could be as much as a year, as I understand, or maybe a little more than a year, or a season.

Under the present allocation, they are using the year 1972 as the authority provided in the Allocation Act. What they have been doing is if one applies for fuel, we will say, in October, they then go back to the month of October in 1972 to determine what his allocation will be, and this has resulted in unfair treatment of many people who might not fit into that kind of a category. So yesterday I tried to move it to 1973, feeling it would be fairer, but that I find even would be unfair to some, so this will provide that they can use a historical period, not a day or 2 days or a month or a week, but a period to make the determination and then allocate the fuel.

Mr. KAZEN. It would be possible to go back to that same month, because that would be a period.

Mr. CONTE. Mr. Chairman, I am particularly distressed that the House has passed, by voice vote, the Nelsen amendment concerning base period allocations. This amendment, if enacted into law, will be another cruel blow for the New England heating oil consumer.

The effect of this amendment will be to destroy the independent sector of the oil industry in the Northeast. This amendment is a sell-out to the big oil barons.

This amendment was considered and rejected in the committee. It was offered and withdrawn yesterday.

Presently, the allocation regulations provide that deliveries should be made based on what was sold and delivered in 1972. That was the last year that independents received deliveries from the majors that were anywhere near adequate.

Beginning in the first quarter of 1973, the major oil companies started cutting back on their fuel deliveries to independent marketers. As the year progressed, the deliveries steadily dwindled.

By moving the allocation period into 1973, as the Nelsen amendment provides, independents will be steadily squeezed until many of them will disappear.

The ultimate losers will be the consumers of New England and the Northeast who depend on independent dealers. In my region, 40 percent of the total supply of heating oil is provided through independent wholesalers. If they can find a new supplier, they will find prices steeply higher and service lower.

With this amendment, I do not believe that I will be able to support this bill. I am asking my colleagues to defeat the Nelsen amendment when the House reconvenes as the Committee of the Whole House and has the opportunity to review amendments that were adopted earlier.

Mr. MAYNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to respectfully differ with Congressman Kazen's interpretation of the regulations announced yesterday. My good friend, the gentleman from Texas, stated that under the regulations announced yesterday, the top categories, including agriculture, would be getting all of the fuel that they need.

If I could have the attention of my good friend, the gentleman from Texas, I do not agree that under the regulations announced yesterday agriculture will have all the fuel that it needs. It will get 110 percent of the fuel consumed during the 12-month period from November 1972

to November 1973. I think that in view of the greatly increased demands on agriculture for more acres, for example, 19 million more feed grain base acres being put into production, much greater productivity being asked for, I seriously doubt whether this additional 10 percent over last year is going to be sufficient to meet the needs of agriculture, so I would suggest to the gentleman that it is inaccurate to say agriculture has no problem and that the top categories are going to get all they need. I think it is very doubtful whether agriculture will.

Mr. KAZEN. I thank the gentleman.

Let us make sure that we understand. This was my understanding from reading the reports in the press and on the radio, and reading the report itself. It was my understanding that those categories would have the amount of fuel that they actually need. Am I wrong in that interpretation?

Mr. MAYNE. I believe that is an erroneous interpretation. I note that the very distinguished chairman of the House Committee on Agriculture, the gentleman from Texas (Mr. Poage) is in the Chamber. He had Mr. William Simon, the new energy czar, meet with our committee the night before last just before the new regulations were announced. According to Mr. Simon, there will be a base period of from November 1972 to November 1973 and everyone directly in agriculture plus all those in agricultural processing and in transportation of agricultural products will be able to count on 110 percent of the fuel they consumed during that 1-year base period. But I fear that is just going to be barely enough for farmers in much of the country and not enough in many areas of the country.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, it is my understanding what I was speaking about now was they could have all the gasoline they would need but not as far as diesel was concerned.

Mr. MAYNE. Chairman Poage put that question directly to Mr. Simon and he replied that the 110-percent allocation will apply to all types of fuel; propane, gasoline, and diesel oil, and everything else in the entire range of fuel. He gave that unequivocal assurance to the Agriculture Committee the night before last.

Mr. RANDALL. Mr. Chairman, I had a brief discussion of the question with the chairman of the Committee on Agriculture and he related to me that Mr. Simon, the energy czar said yesterday agriculture would be allotted 110 percent diesel fuel but over the base period from November of 1972 to November 1973. I think the gentleman's discussion is very important. Maybe we need a strong amendment to nail down adequate fuel for our farmers and related agricultural needs.

Mr. MAYNE. Mr. Chairman, I think the distinguished gentleman from Texas (Chairman Poage) would agree with me that Mr. Simon did assure us that it was to apply to all types of fuel for agriculture and not just one. I see that the chairman of the Committee on Agriculture is concurring with me on that.

Mr. STAGGERS. Mr. Chairman, I rise in support of the amendment.

I would like to say I agree with the author of the amendment that there are certain disparities in the land and certain unusual factors

which need to be taken into consideration. I think it is a good amendment and I agree with it.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, Members may recall that yesterday I told the House I intended to offer an amendment to the mandatory allocation section of this bill. This section, **section 103**, was an amendment to clarify the intent of the mandatory allocation bill that we passed last month. Recent events in trying to meet the needs of farmers for diesel fuel demonstrate clearly to me that my amendment must be spelled out in law.

My proposed amendment states that when the President issues an order to implement the allocation of petroleum products to priority users that any supplier of petroleum products who refuses to obey such an order or the intent of such an order will be subject to the civil fines set out in **section 111(b)** of the Emergency Energy Act.

My amendment has a major purpose in making it clear to the oil companies that when the administrators of the mandatory allocation program tell the suppliers to release needed diesel fuel to farmers that those suppliers are to follow those orders or to face penalties.

Many might ask why this is needed? Mr. Chairman, I could take quite some time in documenting the frustrations of farmers in my district and many others across the Nation in trying to get diesel fuel to harvest their crops and to work their fields. If it was demonstrated that the suppliers did not have the diesel fuel, neither I nor anyone else could complain. It has been indicated, however, Mr. Chairman, and stated to me by local suppliers, that they have the diesel fuel on hand to meet agriculture needs beyond the 1972 allocations, but that they have been instructed by officials of the major oil companies not to release the diesel.

The reason that the agricultural community in my district and throughout the Southwest and the South need more diesel for the winter months of 1973 and 1974 is quite simple.

In the winter of 1972 and 1973 this area of the Nation had very heavy rains. The heavy rains precluded the farmers from using their normal amount of diesel fuel for their tractors and other farm machinery. This year the heavy rains have not come, but despite the fact that the farmers need more diesel and despite the fact that the diesel is available in most instances, the suppliers will not release diesel to farmers beyond the 1972 use.

Normally, this is where the needed flexibility of the administrators of the mandatory program would come into play. This has happened: On November 9 I issued a press release from my office stating that:

The Federal allocation authorities are advising Texas petroleum suppliers to temporarily meet farm diesel needs without fear of violating 1972 allocation base periods.

I continued to say:

The allocation program has not been suspended, but officials realize farmers must harvest their crops.

Mr. Chairman, this release was the result of a personal visit I had with top officials of the Office of Oil and Gas who visited with me in my office.

On November 10 I had to issue another release stating:

Though Federal officials have sent telegrams to many suppliers advising them to increase supplies to farmers who are now harvesting cotton and other crops, the oil companies have been hesitant to comply.

After the two press releases my office and offices of other Members of Congress continued to receive complaints from agricultural people in our districts stating that they still were not receiving needed diesel supplies, and I feel that for every one farmer who called his Congressman, there were probably four or five more who suffered in silence.

It was obvious that the oil companies, despite instructions from the the officials running the mandatory allocation program, were ignoring the plight of the agricultural community. Because of the information I received from farmers in my district, I issued another release before Thanksgiving and in this release I expressed the suspicion and criticism growing about the oil companies' activities with regard to diesel fuel deliveries to farmers. I stated:

Some major oil companies appear to be deliberately ignoring Federal permission to increase diesel fuel deliveries to Texas farmers.

I stated that oil companies' officials had declined to circulate information from the Federal Government among their Texas distributors stating that farm fuel needs could be temporarily met. I stated:

The oil companies have known for days that they could release diesel fuel to farmers and this cat-and-mouse stalling could destroy crops or prevent normal planting.

In this release I stated that many farmers believed that the oil companies were stockpiling diesel for future needs or anticipating higher prices.

Mr. Chairman, on December 3, I wrote the new energy Administrator, William Simon, again spelling out the plight of the farmers and the growing suspicion as to the oil companies' motives. In that letter I pointed out that though the Office of Petroleum Allocation had issued three administrative orders authorizing more diesel fuel for farmers, the major oil companies had persistently refused to release the fuel. I noted that some individuals had been able to obtain needed diesel, but that this was on a case-by-case basis.

Mr. Chairman, the purpose of a mandatory allocation program during the time of shortage is to avoid the situation where some are able to obtain needed petroleum supplies while others are left at the mercy of the suppliers. Thus, we can take no comfort in the fact that case-by-case relief has occurred in some instances. This is inequitable.

These developments have led to suspicion among the rural people that the oil companies may be motivated by three things: one, they are hoarding the diesel in anticipation of higher prices; two, they are making selective deliveries; three, that they are diverting the diesel to their retail outlets where they can receive higher prices for the diesel, or perhaps all three factors are motivating the oil companies.

Mr. Chairman, we have embarked on an agricultural policy in this country to increase production. Our agricultural products are the most positive factor in our balance-of-payment situation. The fact that the agricultural community cannot get the fuel to run their machinery to work their fields and harvest their crops can only mean one thing—agricultural output will be down, our balance-of-payment situation will worsen, and the cost of food to the consumer will go even higher.

That is why, Mr. Chairman, this directive must be restated today: to make it clear that to meet the needs and priorities set out in the mandatory allocation bill, the oil companies must follow the orders of the administrators who administer the program under the direction of the President. We have provided penalties of \$5,000 per criminal violation and \$2,500 for civil violations. These penalties ought to be enforced.

Mr. STAGGERS. As the gentleman has said, the Emergency Petroleum Allocation Act already contains civil and criminal penalties for violations of orders and regulations. He has cited those; they are \$5,000 for criminal violations and \$2,500 for civil penalties.

If these are not carried out, the Congress should see that they are enforced. If the gentleman reports any violations, we will put an investigating committee on them and see if they cannot be carried out.

Mr. PICKLE. Mr. Chairman, I thank the gentleman.

I notice that Mr. Simon yesterday issued another directive that these supplies should be delivered. We have had three previous ones. If these are not carried out under the law and supplies are not delivered, then I hope Congress or somebody brings suit to see that that is carried out.

Mr. STAGGERS. That is our intention.

Mr. NELSEN. The problem the gentleman cited deals with the supplier bringing his product to a user. Mine deals with the penalties in the allocation and granting of allocation to a user, so we are talking about two different things. I certainly would agree that the point of the gentleman is well taken.

Mr. PICKLE. Mr. Chairman, I understand that was your approach, but I thought now was the time to bring this matter up in view of the assurance I got from the chairman of the committee that this law is going to be enforced with the penalties. Therefore, I will not offer the amendment, but I thought since it was before us I ought to mention it at this time. I wanted to be sure that if the suppliers and the major oil companies have the fuel and if they are supposed to deliver it, they better let the farmers or dealers have it.

Mr. KETCHUM. I appreciate the remarks of the gentleman in the well. Three times, on three different occasions, those things have happened in the State of California; however, counsel for the oil companies advised the oil companies not to reply until it was published in the Federal Register and it screwed up the allocation and it took 3 whole weeks to get it straightened out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Nelsen) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 103.]**

AMENDMENT OFFERED BY MR. MOSS TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. Moss. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment **[Sec. 202]** offered by Mr. Moss to the amendment in the nature of a substitute offered by Mr. Staggers: Page 55, Line 12: After "parking surcharge," insert "management of parking supply, and preferential bus/carpool lane regulations".

Page 55, line 23, after "parking surcharge," insert "management of parking supply, and preferential bus/carpool lane."

Page 56, line 10, after "parking surcharge," insert "management of parking supply, or preferential bus/carpool lane."

Page 56, line 13, after "parking surcharge," insert "management of parking supply, and preferential bus/carpool lane."

Page 56, line 16, after "parking surcharges," insert "management of parking supply regulations, and preferential bus/carpool lanes."

Page 56, line 20, after "parking surcharge," insert management of parking supply, or preferential bus/carpool lane."

Page 56, line 25, at the end of subsection (C) insert the following:

"The term 'management of parking supply' and the term 'preferential bus/carpool lane' shall include those general activities covered by but not limited to regulations numbered 52.251 and 52.261 through 52.264 as set forth in VOL. 38 of the Federal Register number 217."

Mr. Moss (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record at this point, and that I be permitted to explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. Moss. Mr. Chairman, this amendment is directed to the language on page 55 of the bill where we acted to postpone the effect of orders of the EPA which direct the imposition of parking surcharges. That occurs on line 23 of page 55 of the bill, and we insert, in addition, the language, "management of parking supply, and preferential bus/carpool lane regulations." **[Sec. 202(b).]**

Mr. Chairman, we amend this, then, and conform throughout and correct it that the Administrator undertake a study, but before actual implementation the matter must come back to the Congress with the appropriate recommendations and the Congress will have to act affirmatively with affirmative legislative action before such regulations can become effective. In other words, it would be a matter of statutory law rather than regulation.

At the present time in California, and I know in Texas and in some of the New England States, they are under orders to start imposing parking surcharges, to start imposing a first space cost on supplemental and parking in major shopping centers. They are under an order to provide carpool lanes or bus lanes. In many parts of the country this is a totally impractical solution.

I think one of the best examples of the impractical nature of the proposal as a solution is in the Los Angeles metropolitan area, which is considerably removed from my congressional district, but where, for a variety of reasons, mainly because they have there one of the great megalopolis of this Nation built on and about the automobile. If every effort within the power of man were to be undertaken tomorrow to devise an effective mass transit system, there would be a lapse of several years. The full implementation of these orders could create chaos.

The same is true in my own areas in the valley areas of California, in the State of Texas and in the New England area. I think that bring-

ing this matter back to the Congress with the appropriate recommendations and having it enacted as a matter of our responsibility and not to the Administrator is by far the preferential method of dealing with it.

We have not had a problem in our committee in responding to the legitimate requests of the Environmental Protection Agency, and I anticipate we would not in the future. I strongly urge the adoption of these amendments.

Mr. BROYHILL of North Carolina. Mr. Chairman, all this does is add the term "management of parking supply and preferential bus/car pool lane regulations," to the amendment which is already in the bill, and under the provisions of language in the bill a study is required and then affirmative action has to be taken by the Congress before these plans would not into effect.

Mr. Moss. The gentleman is correct.

Mr. BROYHILL of North Carolina. And it is my understanding that this is where regulations have been proposed by EPA which are unworkable or are causing chaos particularly in the construction of buildings and residences or apartments or other complexes that require parking; is this correct?

Mr. Moss. The gentleman is correct.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding.

Do I understand now that this amendment will correct many of the inequities that were caused by the issuance of regulations in August and October of this year by the EPA?

Mr. Moss. That is the precise purpose of the amendment.

Mr. Chairman, we require two things: A careful study, and then, that the recommendations be made to the Congress, and that will require affirmative action by the Congress, in other words, a legislative decision.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman.

I know that both he and the gentleman from California (Mr. Leggett) have worked hard on these amendments.

The gentleman from North Carolina (Mr. Broyhill) has very graciously accepted the amendment. I think it is a good amendment because it returns important powers to Congress. I congratulate the gentleman.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have looked over the amendment. There is some disagreement on this side.

However, I would like to say that my people back home certainly do not want a super government imposed upon them by an agency that was created by this Congress. They do not want this agency coming and telling them what they must do and what they can do and what they cannot do.

I agree with this amendment and am willing to accept it.

Mr. ROGERS. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I too, realize the situation that some of the communities with the most serious air pollution problems are facing.

Under the provisions of the Clean Air Act, certain requirements to clean up the air have had to be made. I think perhaps in some areas they have been excessive. I would agree with that.

We have tried in this bill to begin to balance the energy problem with the requirements for clean air.

Now, one of the things we have done in the bill to meet this immediate problem during consideration of this emergency legislation, to provide that EPA cannot place any surtax or any other charges on parking in any communities.

Now, I understand this is not completely satisfactory to some of those communities which have been told that certain lanes should be used for people who ride four in a car or for use as a bus lane.

Now, this type of control has been done in Washington, not because of the air problem, but because of the energy problem.

To simply take away this authority where otherwise it would have an adverse effect on the quality of the air, I think, is a meatax approach, which in this emergency legislation I do not think is wise to do, if we think we still want to have effective clean air legislation.

There is just so much of clean air in the Nation. It is not like oil. You cannot drill it and begin to get it out quickly. It is a product you simply cannot completely replenish in every community.

Let me say that the gentleman from California (Mr. Rees) is going to present an amendment which I think is reasonable and which will approach the problem on a fair basis. It just does not strip them of this parking authority. We have talked to officials of the Environmental Protection Agency, and we know EPA is going to present some recommendations the first of the year on this overall problem.

We ought to do this in a reasoned way rather than in this emergency legislation. We will have to make some adjustments. I understand that.

I do think we have met the immediate problem by doing away with the surcharge. I think we all still want to try to maintain the goal of clean air even though we may have to, in limited instances, modify the effective date of the primary standards. We might as well recognize the thing the amendment seeks to prohibit will be done, anyhow, because of the energy crisis.

The gentleman from California, Mr. Rees, as I stated, will present an amendment that I believe is reasonable. It is not a complete taking away of authority from EPA, because there may be some areas where there should be some carpooling for the purpose of preventing air pollution. We have some pretty polluted areas in this country. So let us be realistic about it. Let us listen to the gentleman from California (Mr. Rees) when his amendment comes up. I would urge that the Congress think very carefully before you jump into this emotional amendment.

Mr. Moss. Mr. Chairman, I must quite candidly express real surprise at my friend from Florida, because we have been having conversations and until this moment I did not know of the depth of his feeling of opposition.

We are under an order to reduce vehicle motor miles traveled in the San Francisco area by 97 percent by 1977. We are under orders to do the impossible. We are under orders to impose surcharges of anywhere from 50 cents to \$2 for a parking space. We are under orders to impose taxes on parking spaces being constructed.

Remember, there are parts of this Nation where there is no existing mass transit and where there is no alternative means of transportation. In some of the very highly complex freeway systems we have

difficult situations occurring. Those of us who have driven them in the metropolitan areas of this Nation and particularly in southern California know of the extreme difficulty, if not the almost engineering nightmare that would be created in an effort to create car pool lanes or bus lanes exclusively. It is fairly easy here in the Nation's Capital where we have constructed a bridge paralleling the 14th Street bridge, which was done almost totally for the use of buses and car poolers and which was paid for by the people of the entire Nation. However, the rest of us are not so fortunate in having the Nation pick up the cost of these special features.

So what might be practical here is not practical in another area. All we are attempting to do is to have the practical proposals made and submitted to the objective scrutiny of the Congress, which ultimately has the responsibility anyway.

Mr. SATTERFIELD. Mr. Chairman, I rise in support of this amendment.

Mr. ROUSSELOT. Mr. Chairman was quite surprised that the gentleman from Florida (Mr. Rogers) was so willing to go along with some of these regulations that have been promulgated by the Environmental Protection Agency. For instance, if these regulations went into effect on July first next year, the zoo in Los Angeles, Calif., would have to charge a tremendous fee for parking where they now have free parking. I am sure the gentleman from Florida does not want to deny people the right to park at the zoo.

The regulations that were promulgated by EPA, and we all acknowledge that part of it was the result of a court action, but still in many parts of the United States they are almost impossible. So I think it would be unwise not to have the EPA come back to the Congress so that we can review these regulations before they so arbitrarily implement them.

I believe that the amendment offered by the gentleman who is on the committee, the gentleman from California (Mr. Moss) and who serves on the committee with the gentleman from Florida, and who is aware of these regulations, I think the amendment is a very reasonable one. All it does is say that the Environmental Protection Agency must come back on these issues of a parking surcharge, preferential bus lanes, and parking supply, to the Congress. What is wrong with that?

Mr. ROGERS. Mr. Chairman, I might say that the tax that the gentleman is speaking about at the zoo is already prohibited, as the gentleman knows, in the bill.

Mr. ROUSSELOT. Only for 1 year.

Mr. ROGERS. No; it is handled permanently, because there could be no authority to impose a surcharge unless the Congress grants it. The gentleman is incorrect.

Also I would like to point out that I find that the EPA realizes that some changes are desirable, and it will submit a plan for California.

Mr. ROGERS. Mr. Chairman, I thank the gentleman from Michigan for yielding to me.

Mr. Chairman, the Environmental Protection Agency has said that they think it would be an absurdity to have this done in this approach, and that the whole question ought to be looked at. And they realize that—

Something must be done to alleviate massive social and economic disruption that would result if air quality standards were achieved by the statutory dead-

line in a few metropolitan areas. We anticipate forwarding our recommendations on this matter to the committee shortly after the first of the year.

I was quoting from a letter from Mr. Quarrels of the EPA.

I think Mr. Rees' amendment, along with what is already done in the bill would handle the immediate effect.

Mr. Quarrels, who is the Assistant Administrator, has stated that EPA will come up with a proposal so that we can look at it in its entirety, and not just two or three shots here at a time.

Mr. Chairman, what the gentleman from Florida has said about a letter of assurances, and all the other kinds of assurances from the EPA, would be fine if that is what had happened in the past. But if the gentleman will remember, there has been all kinds of hearings on this in New York and everywhere else. They have just come right on with all their "wonderful rules and regulations." My belief is we should make it absolutely certain that they must come back to Congress in these important areas.

Mr. YATES. Mr. Chairman, this amendment seeks to use the energy crisis as a possible variation of existing law. I want to talk about another variation of the law, if I may. I want to ask the chairman of this committee, the gentleman from West Virginia (Mr. Staggers), a question.

The city of Chicago faces the abandonment of airlines service to Midway Airport on January 4, allegedly attributable to the energy crisis. Several airlines have already indicated their intention to discontinue services as a result of which the airport will have to be closed.

Members of the Illinois congressional delegation conferred yesterday with the Chairman of the CAB to request his help in keeping Midway Airport open. The Chairman, Mr. Timm, took the position that the CAB had no authority to require the airlines to serve Midway Airport, that the airlines were satisfying their obligations under their certificates of convenience and necessity by rendering service only into O'Hare Airport. If that contention is valid, it will result in a drastic curtailment of transportation service to the city of Chicago, to Indiana, and to the State of Michigan.

Does not the chairman, the gentleman from West Virginia, agree with me that the proposed cuts in service are not contemplated by the present energy crisis, and should not the CAB be required to protect the public at this time?

Mr. STAGGERS. I agree with you. And I join you in serving notice on the air carriers and the Civil Aeronautics Board that the energy crisis is not to be used by the carriers, with sanction by the CAB, to make sweeping cuts in service such as the carriers have proposed for Midway. Sixteen flight deletions out of 16 does not sound right to me.

As you know, the CAB has specific authority, under section 404 of the Federal Aviation Act, to assure the provision of adequate service by the certificated carriers. Section 404 states very clearly that it is the duty of the carriers to "provide safe and adequate service, equipment, and facilities." Likewise, it is the duty of the CAB to see to it that the carriers live up to their responsibility for the provision of adequate service. Both of these duties—the carriers' and the CAB's—

should be executed continuously and certainly should not be bogged down in long drawn out administrative and court proceedings.

In context with the emergency nature of the fuel shortage, it is high time for the CAB to move forward—to use some initiative—to exercise its statutory authority over a few weeks, rather than over several years. In a situation such as you have at Midway, they can and should use show cause orders or any other short procedures to meet the emergency nature of the carriers' actions.

I know that the CAB can act with full speed when they have enough motivation. They acted with impressive promptness over 10 years ago when, after the Imperial crash which took the lives of over 90 servicemen down near Richmond, we directed the CAB to clean up the exempt or irregular carriers—and they did. They screened out the unsafe and unfit carriers and gave certificates to the survivors. That was no long-drawout proceeding. Similarly, they can and should speed up their procedures on the adequacy question.

Mr. MURPHY of New York. I might say to my friend, the gentleman from Illinois, that we have had Chairman Timm of the CAB up in an ad hoc meeting of the New York-New Jersey delegation protesting the cutback of flights between New York and Washington. We found that he was totally uncooperative. He did not understand that the law said adequate service must be maintained as well as safe service. This is now 4 months later. He has done nothing. We have had the FAA Administrator up. He has done nothing but make one speech at a lobbying meeting of the industry. The industry did not agree with him particularly in this area, and it is going to take the Congress to act to insure that adequate transportation is maintained on the Naiton's routes, and that the energy crisis is not used as an excuse.

Mr. MURPHY of New York. I would say that the energy crisis should not be used for rail discontinuances, for discontinuances of airline flights between essential points, after this Government has authorized common carriage in these areas on the cases presented. We need those services.

Mr. Moss. Mr. Chairman, I just want to make this observation. It is well and good for the distinguished gentleman from Florida to stand here and tell us that we have assurance of studies and a report back sometime in the next several months, but in the meantime there is a crippling paralysis in construction. There is an uncertainty that makes it impossible to proceed with orderly planning projects which provide employment.

The effect of the pending order in my State is one of paralysis, and people should not be further burdened during a time of crisis by this path of uncertainty while we wait for an administrative agency to correct what they admitted are the excesses of their order which should not have been issued without more care in the first place.

Mr. YATES. Mr. Chairman, with respect to the statement by the distinguished gentleman from New York, it is my contention, and I have had the agreement of the distinguished chairman of the committee, that the CAB currently, under present law, is required to make sure that adequate service is rendered between the cities of the country in accordance with the certificates of the carriers and they should do it without further action on the part of the Congress.

The fact that they are not doing it does not mean they do not have the authority to do it. It is our contention they have the authority and the responsibility to do it and the fact that they are not doing it means they are not living up to their responsibility.

Mr. Chairman, I want to associate myself with the remarks of the distinguished gentleman from California (Mr. Moss) who is the ranking member from our State on the Interstate and Foreign Commerce Committee.

I support his amendment to restrict the authority of the Environmental Protection Agency to regulate or place a tax or surcharge on parking spaces and areas without adequate input and coordination with the affected communities and parking management people.

I believe the gentleman's amendment is consistent with both the desires of my constituents who are directly affected by the EPA regulations as well as the concepts of traditional American governmental procedures.

The mixed up history of the promulgation of these regulations is a lesson in the need for responsibility of the Congress. In this instance, provisions were added to a House-passed bill by the Senate and were ultimately enacted into law without any debate or hearings by the House and without our being able to develop the kind of legislative history that could have prevented these unrealistic actions.

EPA promulgated clean air standards and then was required by a court order to promulgate rules to achieve the standards. The result was hard to describe in a nontechnical sense but it is either an unrealistic standard in the first place or an unrealistic timetable for achieving the initial standard.

In any event, while I have not the slightest quibble with the need for strict air pollution standards and have personally been intimately involved in the effort to make certain that California be allowed to have more stringent standards than the rest of the Nation. I am also reasonable enough to know that we need not pay the price of unacceptable economic and social dislocation to meet these vital goals.

I believe every member of the California delegation is in basic agreement with these views because we are the ones who have lived most closely with the need to solve the air pollution problem. It has always been a team effort in the past just as it is today.

We have attempted to seek solutions to air quality problems on a broad front in a variety of legislative vehicles. The highway bill which was written by the Public Works Committee, of which I am a member, is a good example of that effort.

In that bill we included additional, earmarked funding for urban highways with preferential lanes for carpooling and buses and with segregated lanes for bicycling. Our goal was always to improve the quality of the air and the environment in coordinated, effective ways that would be economically and socially acceptable.

The Moss amendment will help direct EPA in that direction and will also give the Agency a period of time to meet with local governmental officials who, in my judgment, are the best qualified to advise EPA on the course of action it should follow in helping to clean up our air.

Once we have the input from the local people, officials, and political subdivisions affected, the Congress, working with EPA, will be in a

much better position to advance reasonable, realistic, and attainable plans toward the realization of our clean air goals.

Mr. REES. Mr. Chairman, I appreciate the gentleman yielding. The reason I wanted to address the Committee was to clarify what the law is today, what the Clean Air Act Amendments of 1970 did. What we did with these amendments when we passed them was to give the responsibility to the Environmental Protection Agency to develop air standards throughout the United States, air standards that were compatible with health. They did that.

We also directed this Agency, that is we in this Congress, that they would make the recommendations to local and State governments as to what these local and State governments would have to do to qualify under these standards by 1977. This is what the EPA was told to do by us. So it is not something they thought up.

All right now, in the case of Los Angeles, my own city, they have come up with a plan which they say will give us clean air by 1977. In the letter to the gentleman from Florida (Mr. Rogers) and in a letter to me today they admit that it is impossible for us in Los Angeles to come up to these standards.

So what we have here are a series of measures. We have vapor recovery at gasoline stations which will reduce the pollutants by something like 17 percent. They provide for dry cleaning solvent controls which will result in another 0.9 percent. They talk about catalyst retrofit, a gimmick they put on the car, and already we are doing that, which results in 15 percent. They talk about motorcycle limitations. Then we get down to reductions promulgated for VMT—that is vehicle miles traveled—for control by 1977.

So what we are stuck with in southern California is that something like 60 percent of what we have been doing is directly tied in to the lowering of the vehicle miles traveled, which means that the way we are going with the strictest regulations in the country over both stationary and moving sources, that by 1977 the Los Angeles Basin would be closed down, that all the Agency could do under the law would be to say that they have to tell us that on any day where any of these standards of the three major chemical standards are violated, that not one moving vehicle can move in the Los Angeles Basin.

This is what we are faced with. The Agency realizes this and they said they will come up with recommendations. And at about 3 or 4 in the morning I will be up with an amendment which will get some of this underway.

What this does to the amendment offered by the gentleman from California (Mr. Moss) is to add to his amendment an amendment which prohibits parking surcharge. Mr. Moss further amends that by saying certain strategies for vehicle lanes for buses and carpools and such are prohibited until Congress can make a finding. But the problem is we are now telling the EPA they cannot use the strategies, and I agree with telling them this, but the only thing they can do now is to say that no automobiles can be driven during days when pollutants reach the top in the year 1977. **[Sec. 202.]**

So as we can see, that while this amendment might be needed to stop the problem that we have temporarily, that it will not stop the problem that we will have in 1977, which will be the virtual closing

down of those areas, such as in California, where we have an inversion area, a meteorological type of lid that keeps the pollutants in our metropolitan area.

I want to clarify that, because people are saying that the EPA is wrong. They are doing exactly what we told them to do. They are realizing they are in a straitjacket.

I hope later when I am finally recognized for an amendment that I can offer an amendment which will take away a lot of this impact, so that we can have air quality; but we can run it out to say 1985 in a heavily impacted area, like San Francisco or Los Angeles or some of the eastern cities.

Mr. ROGERS. Mr. Chairman, I would urge that we vote down this amendment. Let us come back with an amendment to suspend for 1 year, which would allow them to come into the Congress with a recommendation and a whole package representing the total picture.

Mr. LEGGETT. Is the gentleman suggesting that we suspend the items mentioned in this particular amendment for a period of 1 year?

Mr. ROGERS. Yes, I would. What does the gentleman think about that?

Mr. ROGERS. Mr. Chairman, I thought the gentleman might respond as to his feelings about suspending parking limitations and lane limitations for 1 year.

Mr. MOSS. Mr. Chairman, in view of the fact I am proposing the amendment, it would be appropriate to address the question to me.

I would say the suspension for 1 year would only insure that the chaos created by the August order would continue with certainty for 1 year. It would not cure the problem. It would not remove the problem.

With all good respect for my friend from California (Mr. Rees) and I know his long association with these matters and his expertise; nevertheless I disagree with him equally. I think it is time here that we remove the problems created by the unwise action of the EPA in the orders they issued.

Mr. TALCOTT. Mr. Chairman, I support this amendment. I commend the committee for rescinding the parking surcharge previously promulgated by the EPA. This demonstrates that the House can respond quickly to the desires and needs of our constituents.

The proposed rulemaking promulgated by the administration of EPA on November 12 was a blatant attempt by the Federal Government to arbitrarily impose its will on State and local governments with no regard for the economic consequences to the community.

This administrative action would circumvent the legislative process. It is of doubtful constitutionality since it usurps the taxing authority of the House of Representatives.

The consequence of this so-called parking surtax would be a tremendous financial burden on employees, employers, and public entities, including schools, hospitals, libraries, and churches.

It would unduly complicate transportation of working people, create unemployment, disrupt business operations and result in economic chaos.

An employee who drives to work and has to pay a mandatory charge would, in effect, be taking a cut in wages.

Furthermore, if any substantial number of auto commuters attempted to convert overnight to bus travel, or other mass transit, the existing supply would be unable to handle the volume of people, and chaotic transportation conditions would result.

Another readily foreseeable adverse side effect would be the loss of many skilled workers who would be unwilling to undergo the irritation of bus or rail commuting and unable to withstand the financial impact of continued auto travel.

Mr. Chairman, the committee, in section 202(b)(2) rescinds the parking surcharge. The bill will preserve the right of State and local governments to enact their own laws without having "big brother" superimposing its will on them. To this extent the committee has eliminated some of the defects of this bill. The amendment will restrict the authority of the EPA until a more practical solution is discovered and the consequences better understood.

Mr. LEGGETT. Mr. Chairman, I move to strike the last word.

I really do not think we are all so far apart today in these regulations. I think we have all had discussions with the Environmental Protection Agency. I think they have admitted that they have promulgated regulations in California prematurely. If we could have had an agreement from them that they would repromulgate the regulations for the transportation plan that has just gone into effect and is law in California today, certainly this amendment would not be required; but unfortunately, we are trying to handle the situation in a very piecemeal way.

As an example, originally in the regulations that were promulgated there was a parking tax that was going to go into effect on each and every parking place in excess of five of something like \$450 per parking place. As I indicated, the House a few weeks ago on a supplemental, some of our major corporations were destined to pay more taxes in parking than the Federal income tax. These regulations have been very wisely withheld by the Environmental Protection Agency. They are going to repromulgate.

In addition to parking, we have parking supply management. What does that mean? That means that any construction as the regulations were promulgated of 50 or more parking places or facilities pertinent thereto in the five Western States, they need to apply to a supergovernment in San Francisco, to Mr. De Falco.

These we have authorized under previous legislation, and he would have the power to approve each and every one of those projects. We asked him, when did this become effective. It became effective last August 15. It just so happens that we have had some of our people who have had correspondence with the San Francisco office as late as September, and they did not even know that these regulations were in effect. We found out that they have on the order of 100 applications pending there, holding up construction in the five other States on those 100 projects; that the 100 projects comprise only 10 percent of the projects that are moving ahead, because 90 percent of the projects and the people that are building them are totally oblivious to the fact that EPA was really serious about promulgating these particular regulations.

The targets they have assumed in the regulations in compliance with the Federal law appear to be somewhat unrealistic. In the San

Francisco area, they have to reduce traffic by 94 percent over the next 2 years in order to comply with what we have told them to do under the act. In the Sacramento area, they have got to reduce traffic 69 percent, including Placerville—that is Hangman's Town in Mr. Johnson's district—we thought that was a rural area. They have got to reduce traffic by 39 percent in rural Bakersfield at the southern end of the San Joaquin Valley.

In addition, the regulations that are promulgated would totally preclude the operation of any motorcycle in the State of California commencing in 1976 during the months of May, June, July, August and September. We are talking about probably about 200,000 vehicles. We think we have heard from the retailers and builders who are hurt—wait until this Congress hears from Hell's Angels. They are going to be down our necks like Gangbusters.

So, we do not cover that in this amendment. All we intend to do is to call to the attention of the Environmental Protection Agency that they have moved ahead like a shotgun, which they frankly admit they have. They need to go back to the drawing board and come up with something that is reasonable. If they cannot do it under the law, they have got to come back to Congress and ask for an amended order.

Mr. LEGGETT. Mr. Chairman, I think there is a way out of this morass, and I believe that the air quality control section of EPA has attempted to act reasonably, but they were mandated by the court to act unreasonably. In California, of course we are concerned, where we enacted the air quality legislation, that our high standards would be allowed to stand irrespective of Federal legislation. Now, we find out that the California standards are totally inadequate. Nothing helps, and as a result we do not have any cooperation at all with the air quality agency of the State of California, which everybody admits is one of the best leading air quality agencies in the United States.

Mr. KAZEN. Mr. Chairman, I just tell my friend from California that I welcome him into the picture. I think the State of Texas was the first State to feel the wrath of EPA under that bill. Incidentally, the gentleman from California (Mr. Rees) kept talking about what we in the Congress had told EPA to do.

Well, I will admit that it was in the clean air bill, all of these things they say they have authority to do, but let us review the history of that bill. Not one single word was spoken on the floor of this House when that bill was before this House—we never talked about transportation and the authority given EPA over transportation.

That provision was in the Senate bill, and then the conferees agreed to it, our own conferees. And when they came back on this floor with that conference report, not one single word was told on this floor about those provisions being in that conference report.

So we in this House did not get an opportunity to legislate on this Clean Air Act, as far as NEPA was concerned.

The amendment that I will be introducing along with the gentleman from California (Mr. Goldwater) says that there has to be more than a 20-percent reduction in vehicle miles traveled, and then automatically that area is granted a 2-year extension. It is an attempt to try to spread this bill out so it does not have too much of an adverse effect on the gentleman's community and upon my community.

Mr. KAZEN. Mr. Chairman, I understand what the gentleman is trying to say. But under the amendment proposed by the gentleman from

California (Mr. Moss), we are telling EPA not to proceed until they come back to this conference and find out what we want them to do and what authority we give them to do.

Now, under your amendment, you do not do that.

Mr. REES. No. I am not in opposition to this amendment that is now pending.

Mr. Moss. Mr. Chairman, I think the Committee on Interstate and Foreign Commerce of this House has demonstrated time and time again that it is a highly responsible committee and it does act promptly when the agencies submit well reasoned requests to the committee for its consideration.

I know that the gentleman from Florida, who chairs the Subcommittee on Public Health, has been most cooperative with the agency in responding to its requests. And there is no reason to believe that if they give thought and care, far more than they did in this case, to the promulgation of the proposals, they will be given the appropriate consideration by the committee and ultimately by the Congress.

Mr. KAZEN. Mr. Chairman, I agree with what the gentleman says.

My people from Texas have come before the gentleman's committee, and they listened to them.

However, when I hear that the reason the Environmental Protection Agency has done what it has done in formulating these plans was because they were under court order to do so, well, if we do not like it, if we do not like that court order, there is only one remedy we have: Change the law. And this is the place to do it.

So I see nothing mystic about an amendment like this, telling EPA what they can or what they cannot do, because, after all, this is the place where we do tell them what they can do and what they cannot do.

The other thing that hackles me a little bit actually is that they went all over this country, and there are very few places where they have not been, and they said, "We want public hearings. We are going to give you public hearings."

They have always announced their plans.

They came into San Antonio and they had public hearings on this plan. Nobody was for it. I understand the same thing happened in Boston and in some other cities. And then when they got through with those hearings, they did not cross one "t" or dot one "i" any differently than what they had done before those hearings were held. So the hearings were a mockery.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I recognize the desire of a large percentage of the membership here to get on with the job. We have probably been working on this bill for 10 or 15 hours.

Those of us who are not members of the committee get a very rare opportunity to speak. Of all these Members affected by air pollution, I think I, with the district I represent, probably bear the worst brunt of it.

What we are attempting to do in this piece of legislation bears very heavily on the prospect for achieving clean air in this country, and I feel constrained to make a few remarks about it.

The pending amendment is not, in my opinion, going to drastically affect the situation one way or another. The EPA has already taken

the action mandated by the upsurge of public opinion to withdraw these restrictions on parking, as they quite properly should have done.

What I am concerned about is that in various other sections of the bill we may be making it impossible to achieve any progress whatsoever in solving the air pollution problem in southern California. I would not even regret that so much if I sensed on the part of the membership of this House an awareness of the fact that we have contributed to creating this problem.

We have created that problem by our love affair with the automobile and the oil business and the subsidies which promoted the vast expansion of gasoline sales and the tax advantages to the oil companies and our failure adequately to fund mass transportation or any other form of energy-saving device or economic transportation compared to the way that we funded freeways and things of that sort.

If, out of the discussion on this bill, will come a realization that we must mend our ways and begin to appropriate money to build mass transit facilities, as we have done freeways in the past, then we can resolve both the air pollution problem and the energy problem within a reasonable period of time.

However, this bill, which seeks to make major amendments in the Clean Air Act, is not going to help a great deal in solving the air pollution problem or the energy problem. I am particularly concerned about that section of the bill which rolls back the standards for automobile emissions.

I am a little puzzled—and perhaps the Chairman of the Committee can explain—how it is by changing standards for 1977 or 1978 or even up to 1983, we are going to solve or contribute to the solution of the energy problem in 1973 or 1974.

I do not think that is the answer. Yet we have in **section 203** of the bill a fairly substantial change in the emission standards which has the effect of allowing automobile companies to continue to make polluting automobiles for this additional length of time.

Would the chairman of the committee care to comment on the importance of that particular section of the bill? If I may be specific, Mr. Chairman, why is it that the change in the standards set forth in **section 203** will contribute to the solving of the energy problem in 1973.

Mr. STAGGERS. I will say to the gentleman that the bill as we have it now I think is a good bill and will take care of a lot of the problems that the gentleman mentioned here. Especially, may I say, the amendment offered by the gentleman from California, your colleague, which I hope we can vote on in a moment.

Then there are other problems or other amendments that will be offered, and I hope we can take them up and dispose of them promptly.

Mr. BROWN of California. I thank the chairman. I would not have taken the time to speak at this time unless I was led to believe that under the procedures we have been following I would not get a chance to offer my amendment to strike out **section 203** and even if I do have that opportunity I would not have the opportunity to debate it. I am beginning to feel that my rights as a Member of this House are being slightly infringed upon by this procedure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. [Sec. 202.]

Mr. DEVINE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I may have the attention of the chairman of the committee (Mr. Staggers), I have asked for this time in order to see if we can come to some agreement on working out the mechanics for the ultimate conclusion of this legislation. I ask the chairman what he has in mind as far as the committee rising tonight is concerned and returning tomorrow and perhaps reaching an agreement on when we can finally conclude this matter.

Mr. STAGGERS. I would certainly like to come to some agreement here if it can be a consensus. I do not want to cut anybody off. I think we have to have some kind of an agreement to come to a conclusion on this matter, however, I would say that if we can come to an agreement that we will come in at 10 o'clock tomorrow, I then feel it would be a reasonable time to stop at 3 or 4 on tomorrow and vote on the bill.

That would be 6 or 7 hours more. If we do not do that, I would suggest we keep on with the debate here for a while, and get a few more amendments covered. I would say that we would probably rise now at 7 o'clock.

Mr. DEVINE. Mr. Chairman, it is my understanding, and having recently checked with the Clerk at the desk, that there are now pending some 63 amendments, some of which may be duplications, of course. Perhaps we could come to some agreement as to a limitation of time as to the consideration of each amendment so that we could see daylight at the end of the pipe. Does the gentleman from West Virginia have any ideas along that line?

Mr. STAGGERS. Mr. Chairman, I would certainly hope that we could find a way to solve this, because I also understand that many of these amendments are duplications, and some of them will be accepted, I am sure, on both sides of the aisle. So I do not think that when we actually get to the consideration of those amendments that they will take, really, the amount of time that we think perhaps they will.

I do wish to be fair, certainly, to every Member in the House, and that every Member should have a chance to offer their amendments. I would hope that we can reach an agreement maybe to vote on this bill by 3 o'clock tomorrow afternoon.

Mr. DEVINE. Does the Chairman wish to put that in the form of a motion, that all debate on the bill and all amendments thereto close at 3 o'clock tomorrow?

Mr. STAGGERS. I would rather present a unanimous-consent request first.

Mr. KETCHUM. Mr. Chairman, reserving the right to object—

The CHAIRMAN. The Chair will state that no unanimous-consent request has been made. Does the Chairman wish to make a unanimous-consent request?

Mr. STAGGERS. If the gentleman will yield further, I would like to address the Chair and say, Mr. Chairman, that I ask unanimous con-

sent that all debate on the bill and all amendments thereto would close at 3 o'clock tomorrow afternoon.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Chairman, objection.

The CHAIRMAN. Objection is heard.

The Chair would have to state that the Committee of the Whole cannot set the time of convening on tomorrow.

Mr. STAGGERS. Mr. Chairman, I understand that, and I know that I would have to wait until later so as to consult with the Speaker and others as to the time that we might resume tomorrow.

Mr. Chairman, I would say that perhaps if we could finish up within the next few minutes in the Committee of the Whole that then we could try to come in at 10 o'clock tomorrow morning, when we get back into the House, and then tomorrow morning take another look at this, and see if we can expedite the consideration of the bill tomorrow.

Mr. Chairman, if the gentleman will yield further, in response to the question posed by the distinguished Speaker, I would say that if we can continue until 7 o'clock, that we could then rise with the understanding that we would then try to see what we can do with reference to what the Speaker said about tomorrow morning for a reevaluation of the situation, that I would be very happy to proceed to do that.

Mr. DEVINE. Does the Chairman desire a limitation on the pending amendment?

The CHAIRMAN. The Chair will advise the gentleman from Ohio that there is presently no amendment pending.

AMENDMENT OFFERED BY MR. HASTINGS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. HASTINGS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Hastings to the amendment in the nature of a substitute offered by Mr. Staggers: On page 57, beginning on line 1 delete section 203 of H.R. 11882 and insert in lieu thereof the following:

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) REVISION OF STANDARDS.—(1) Section 202(b)(1) of the Clean Air Act is amended—

(A) by striking out in subparagraph (a) "1975" and inserting in lieu thereof "1978";

(B) by striking out "during or after model year 1976" and all that follows in subparagraph (b) and inserting in lieu thereof "during model year 1976 shall contain standards which limit emissions to a maximum of 3.1 grams per vehicle mile of oxides of nitrogen. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1977 shall contain standards which limit emissions to a maximum of 2.0 grams per vehicle mile of oxides of nitrogen"; and

(C) by adding at the end of such paragraph the following new subparagraph: "(C) Compliance with the regulations prescribed pursuant to this section for model years 1975, 1976, and 1977, shall be measured by certification test procedures prescribed by the Administrator for model year 1975. The regulation for model years 1975, 1976, and 1977 prescribed pursuant to subsection (a) (for carbon monoxide and hydrocarbons) shall impose the same emission standards as are in effect as of December 1, 1973, for model year 1975."

(2) Section 202(b) (5) of the Clean Air Act is repealed.

(b) Extension of Implementation Plan Deadlines.—Section 110 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

“(g) Notwithstanding any other provision of this Act, the Administrator may, within the period by which (under subsection (a) (2) (A) (i)) an applicable implementation plan must provide for the attainment in a State of a national primary ambient air quality standard (as such period may be extended under subsection (e)), extend such period for not more than two additional years if he determines that such primary standard cannot be attained in such State within such period solely by reason of the amendments made by section 203(a) of the National Energy Emergency Act.”

Redesignate the succeeding sections.

Mr. HASTINGS. Mr. Chairman, before I proceed on the amendment I might say that we put these House computers to work a few moments ago and divided the number of amendments that are remaining by the time it took us today to pass various amendments. We figured out that if we spend 7 days a week, 8 hours a day, with the number of amendments remaining, we will finish on December 28. I am sure everybody will be happy to know that, as we consider the limitation of time tomorrow.

Mr. Chairman, this amendment, although it took a great deal of time to read, is a rather simple amendment. In the wisdom of the committee, and as a compromise between and among all of the people who are interested in either changing the auto emission standards in the Clean Air Act or opposing any change whatsoever, and those who would have us relinquish whatever controls we now have in the act, the committee came up with a compromise, and that is to keep in place the auto emission standards for the year 1975. They would stay in place in the bill for the years 1975 and 1976.

This amendment merely says that those 1975 standards would be in effect for the years 1975, 1976, and 1977. This adds 1 additional year to the 1975 auto emission standards. I know there are those in this House who would like to remove all auto emission standards whatsoever, and this was thoroughly discussed in both the subcommittee, as chaired by the gentleman from Florida (Mr. Rogers), and in the full committee, and the best compromise possible. I think, was to adopt the 1975 standards. This amendment, I will repeat, only extends those standards to the year 1977, in addition to what the bill does. [Sec 203.]

I might say, and I think the gentleman from California (Mr. Brown) stated this earlier in relation to another amendment, that sometimes this Congress forgets that we are the ones who passed the Clean Air Act in the year 1970.

We are the ones that put it in place. We allowed EPA to have the authority to do what they have done today under the Clean Air Act, and we in fact then said to the automobile manufacturers of this country that they must meet certain standards by the year 1975. Some of those companies have proceeded to try to meet those standards and in fact have put into place the technology available to them to do that.

Now we are intending to change the standards and by going to 1975 some auto companies say they can meet those standards and some say they cannot, but what I am attempting to do in this amendment is say let us, for heaven's sake, adopt the standards we think are the best compromise in the interest of protecting clean air and of protecting the economy which of course is affected by every movement in the auto industry, and do what is in the best interest of everybody con-

cerned, which in my judgment is to adopt the 1975 standards as standards and then just to continue them for a 2-year period of time.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do this for the purpose of getting some understanding on the debate on this amendment. The Chairman has proposed that we adjourn at 7 o'clock and I would like to get some agreement that all debate on this amendment will close at 7:05 and we would then rise.

I ask unanimous consent that all debate on this amendment close at 7:05.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. ROGERS. Mr. Chairman, I would oppose this amendment and I would hope the House would oppose it. The committee itself in its deliberations in both the subcommittee and the full committee opposed it. The subcommittee held 3 days of hearings and rejected this approach and the full committee rejected it and I think the House should reject it.

What the bill does do is to extend the 1975 standards 1 year, and then it gives the discretion to the Administrator of EPA to extend another year if that is necessary. Furthermore, on the NO_x standard, it would allow an extension up to 1983 if the Administrator so determines that is necessary. So we have adequately provided in the bill the proper approach and I would say as the committee said in its determination that we ought not in this hour simply to emasculate the Clean Air Act.

This gives us plenty of time to act later, that is the committee bill. This simply sets in the law where it cannot be changed that we are going to have 1975 and 1975 and 1975 and 1976 and 1975 and 1977. We think that is not a proper extension to have. The committee said that and we think we can accomplish what needs to be accomplished. We tried to get a proper balance here by saying we can have 1975, 1975, 1975, and 1976, and then let the Administrator determine if 1977 is needed.

Mr. Chairman, I urge defeat of this amendment.

Mr. HASTINGS. Mr. Chairman, it is very seldom that the chairman of our Subcommittee on Public Health and myself differ on many issues. We most often work very carefully together and generally in the best interests of the matter at hand.

I was rather sorry to hear him use and say the word "emasculate" the Clean Air Act, because as I mentioned before, there are those who would remove our standards completely. The gentleman knows I do not use that approach.

There are those who would prefer to go to the 1974 standards, which would have the possible effects of emasculating the Clean Air Act. I do not say that I have consistently supported the Clean Air Act and will continue to do so, both as relating to auto emission standards and to stationary standards.

I am simply saying here, and as the gentleman from Florida says, we will allow the Administrator of EPA to make a decision as to whether he will grant the additional year. I say that in the wisdom of this Congress we should make that judgment. We have left too many

decisions now to the Administrator of EPA and we are paying for them, as these past amendments have spoken rather largely to.

We will do what the gentleman says, go to 1975 or 1976, as the bill allows; but then instead of allowing the Administrator of EPA to go to another year, let us make that decision here and tell both the American public and the automobile manufacturers what we will suspend in 1975 and proceed for 2 years and deal as we should with the problem of the manufacture of automobiles to eliminate emission standards.

Mr. ROGERS. Mr. Chairman, the gentleman has been a strong supporter of clean air and does not mean to emasculate the Clean Air Act; but let me say, what is the purpose of the gentleman's amendment? I presume it is to help save fuel in the energy crisis.

Mr. HASTINGS. I would assume from the title of the bill that everything we do here is to do precisely that, to save fuel.

Mr. ROGERS. If that is the case, I am sure the gentleman can read——

Mr. HASTINGS. I will say to the gentleman that I can read.

Mr. ROGERS. Let me point out to the gentleman, on line 22, page 81, if he can read——

Mr. HASTINGS. Pardon me. Will the gentleman yield on my time?

Mr. ROGERS. I yield to the gentleman.

Mr. HASTINGS. I cannot find in my bill page 81. Although I question whether I can read, I wonder if the gentleman can count?

Mr. ROGERS. It is in paragraph subsection (f) under (5) (A) to (f). It is page 59. I was looking at the wrong page of the substitute. **[Sec. 203(f).]**

It is saying that he may waive such standards if they would result in significant increase in fuel consumption. This is for 1977.

Mr. HASTINGS. But the gentleman knows that the Administrator of EPA does not want to suspend that standard at all. He has so told us; so when we say we will give him the right to make the decision 2 years down the line, when he is already on record as saying he did not agree to any relaxation in standards, I cannot have the same confidence in the Administrator that he will take that action.

Mr. GUDE. Mr. Chairman, there is a growing belief in the country that one of the ways to help solve the energy crisis is through the relaxation of a wide variety of environmental standards, and to make the environmentalists the scapegoats for all our problems.

Specifically, I do not believe we should sacrifice the health of this Nation as it pertains to air pollution by blaming antipollution devices for low gas mileage when heavier cars with automatic transmissions, air-conditioners, and all manner of power gadgets are the real gas guzzlers.

The suggestion is pushed that the implementation of new car emissions standards be delayed in order to conserve gasoline. This belief is manifestly false and cannot be supported by the evidence. In fact, it is quite likely that delays in the implementation of emissions standards would waste energy, not save it.

There are four basic facts that show this clearly:

FACT ONE

The catalytic converter already announced by General Motors for its 1975 cars not only will improve performance but will give more gas mileage, not less. General Motors itself has made this claim.

FACT TWO

By redesigning engines, Detroit can both reduce emissions and increase mileage. The Honda automobile meets emissions standards and provides excellent mileage. Thus we have proof that emissions standards can be met while producing better gas mileage. In addition, we have proof of this dating back to 1930, and it sits in the Smithsonian Institution. A diesel engine built by Caterpillar tractors in 1930 is on display. It meets the most stringent emissions requirements ever proposed, and diesel cars get more than 30 miles to the gallon.

FACT THREE

The 1974 model automobiles do provide poorer gas mileage than previous models, some of which is related to interim-type emission controls on their engines. However, by 1976, under present clean air regulators, all new cars will include catalytic-type devices which GM says will improve mileage.

If the current press to adopt the improved pollution control devices is eased, the current fuel wasting interim devices will be with us for that much longer. The way to save energy then, is to allow the Clean Air Act to continue as it is. The way to waste energy is to freeze emissions standards at current levels.

FACT FOUR

There is a direct relationship between energy consumption and the size of automobiles and their engines. In its efforts to conserve energy through better gasoline mileage for its new cars, Detroit should produce smaller cars in 1976 with smaller engines. Congress should encourage savings by this means rather than by increasing air pollution.

It should be clear from this evidence that the maintenance of sound environmental standards is not necessarily in conflict with energy conservation, and that efforts to delay implementation of emission standards will actually waste gasoline not conserve it.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I want to commend the gentleman for his attitude. I do think we have to be reasonable, but the committee in adopting this position, as the gentleman says, has tried to reach some balance. However, just to go all out the other way and not be realistic, I think would not be right.

Mr. GUDE. Mr. Chairman, it should be pointed out that we have already delayed this 1 year.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL of North Carolina. Mr. Chairman, I see this amendment as a most reasonable amendment. I do not see it as doing, as someone has said, emasculating the language which is in this bill. All it says is that we in the Congress are extending the automobile emission standards 1 additional year.

Mr. STAGGERS. Mr. Chairman, I oppose the amendment and suggest that we vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Hastings) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROGERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 180, answered “present” 1, not voting 52, as follows:

[Roll No. 665]

AYES—199

Abdnor	Devine	Kazen
Alexander	Dickinson	Kemp
Andrews, N.C.	Dorn	Ketchum
Archer	Downing	King
Arends	du Pont	Kuykendall
Armstrong	Edwards, Ala.	Landgrebe
Ashbrook	Esch	Latta
Baker	Eshleman	Lent
Bauman	Findley	Litton
Beard	Fisher	Long, La.
Bennett	Flowers	Lott
Bevill	Flynt	McClory
Biaggi	Forsythe	McCollister
Blackburn	Fountain	McCormack
Bowen	Frelinghuysen	McEwen
Bray	Frey	McKay
Breaux	Froehlich	McKinney
Brooks	Gettys	McSpadden
Brown, Ohio	Gaiamo	Madigan
Broyhill, N.C.	Ginn	Mahon
Broyhill, Va.	Gonzalez	Maraziti
Buchanan	Goodling	Martin, Nebr.
Burgener	Grasso	Martin, N.C.
Burleson, Tex.	Green, Oreg.	Mathias, Calif.
Butler	Gross	Mathis, Ga.
Byron	Grover	Mayne
Carter	Guyer	Michel
Casey, Tex.	Hammerschmidt	Milford
Cederberg	Hanrahan	Miller
Chamberlain	Hansen, Idaho	Minshall, Ohio
Clancy	Hastings	Mitchell, N.Y.
Clawson, Del.	Hicks	Mizell
Cleveland	Hillis	Montgomery
Cochran	Hinshaw	Moorhead, Calif.
Cohen	Hogan	Myers
Collins, Tex.	Holt	O'Brien
Conable	Horton	Owens
Conlan	Huber	Passman
Cotter	Hudnut	Pettis
Crane	Hungate	Peyser
Daniel, Dan	Hutchinson	Poage
Daniel, Robert W., Jr.	Ichord	Powell, Ohio
Davis, Wis.	Johnson, Pa.	Price, Tex.
de la Garza	Jones, Ala.	Quie
Delaney	Jones, N.C.	Quillen
Dennis	Jones, Okla.	Randall
Derwinski	Jones, Tenn.	Rarick

Rhodes	Snyder	Veysey
Roberts	Spence	Waggonner
Robinson, Va.	Stanton, J. William	Wampler
Robison, N.Y.	Steed	Ware
Roncallo, N.Y.	Steele	White
Rose	Steiger, Ariz.	Whitehurst
Rousselot	Steiger, Wis.	Whitten
Ruppe	Stephens	Widnall
Ruth	Stratton	Wiggins
Ryan	Stubblefield	Williams
Sarasin	Stuckey	Wilson, Bob
Satterfield	Symms	Wilson, Charles, Tex.
Scherle	Talcott	Wylie
Schneebeli	Taylor, N.C.	Wyman
Sebelius	Teague, Tex.	Young, Alaska
Shipley	Thone	Young, S.C.
Shoup	Thornton	Young, Tex.
Shriver	Towell, Nev.	Zion
Shuster	Treen	
Sikes	Ullman	

NOES—180

Abzug	Denholm	Karth
Adams	Diggs	Kastenmeier
Anderson, Calif.	Dingell	Kluczynski
Anderson, Ill.	Donohue	Koch
Annunizio	Drinan	Kyros
Ashley	Dulski	Leggett
Aspin	Duncan	Lehman
Badillo	Eckhardt	Long, Md.
Bafalis	Edwards, Calif.	Lujan
Barrett	Eilberg	McCloskey
Bergland	Evans, Colo.	McDade
Biester	Evins, Tenn.	McFall
Bingham	Fascell	Macdonald
Blatnik	Fish	Madden
Boggs	Flood	Mallary
Boland	Foley	Mann
Brademas	Ford, William D.	Matsunaga
Brasco	Fraser	Mazzoli
Breckinridge	Frenzel	Meeds
Brinkley	Fulton	Melcher
Brotzman	Fuqua	Mezvinsky
Brown, Mich.	Gaydos	Minish
Burke, Fla.	Gibbons	Mink
Burke, Mass.	Gilman	Mitchell, Md.
Burlison, Mo.	Green, Pa.	Moakley
Burton	Griffiths	Mollohan
Carey, N.Y.	Gude	Moorhead, Pa.
Carney, Ohio	Gunter	Morgan
Chappell	Haley	Mosher
Chisholm	Hamilton	Moss
Clausen, Don H.	Hanna	Murphy, Ill.
Collins, Ill.	Harrington	Murphy, N.Y.
Conte	Harsha	Natcher
Conyers	Hébert	Nedzi
Corman	Hechler, W. Va.	Nichols
Coughlin	Heckler, Mass.	Obey
Cronin	Heinz	O'Hara
Culver	Helstoski	O'Neill
Danielson	Holtzman	Patten
Davis, Ga.	Howard	Pepper
Dellenback	Jarman	Perkins
Dellums	Jordan	Pickle

Pike	Roy	Udall
Preyer	Roybal	Van Deerlin
Price, Ill.	St Germain	Vander Jagt
Pritchard	Sarbanes	Vanik
Railsback	Schroeder	Vigorito
Rees	Seiberling	Waldie
Regula	Skubitz	Whalen
Reid	Slack	Wilson, Charles H., Calif
Reuss	Smith, Iowa	Winn
Riegle	Smith, N.Y.	Wolff
Rinaldo	Staggers	Wright
Roe	Stanton, James V.	Yates
Rogers	Stark	Yatron
Roncalio, Wyo.	Steelman	Young, Fla.
Rooney, Pa.	Studds	Young, Ga.
Rosenthal	Symington	Young, Ill.
Rostenkowski	Thomson, Wis.	Zablocki
Roush	Tiernan	Zwach

ANSWERED "PRESENT"—1

Parris

NOT VOTING—52

Addabbo	Hanley	Patman
Andrews, N. Dak.	Hansen, Wash.	Podell
Bell	Harvey	Rangel
Bolling	Hawkins	Rodino
Broomfield	Hays	Rooney, N.Y.
Brown, Calif.	Henderson	Runnels
Burke, Calif.	Holifield	Sandman
Camp	Hosmer	Sisk
Clark	Hunt	Stokes
Clay	Johnson, Calif.	Sullivan
Collier	Johnson, Colo.	Taylor, Mo.
Daniels, Dominick V.	Keating	Teague, Calif.
Davis, S.C.	Landrum	Thompson, N.J.
Dent	Mailliard	Walsh
Erlenborn	Metcalf	Wyatt
Goldwater	Mills, Ark.	Wydler
Gray	Nelsen	
Gubser	Nix	

So the amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 203.]**

The result of the vote was announced as above recorded.

Mr. FRENZEL. Mr. Chairman, the Interstate and Foreign Commerce Committee, the Judiciary Committee, and the House leadership have put the House in a terrible position on this emergency energy bill. The bill was hurried, overwhelmed by amendments, and substituted by the committee.

It was brought before us under a rule waiving points of order before most of us had a chance to see it. As soon as it reached the floor, there was another substitute. No one denies the emergency, but I believe this procedure almost guarantees that the legislation will be flawed.

It seems to me that we are overly concerned with recesses, holidays, and vacations. Are we in such a hurry to get out of here that we cannot do the people's work in a businesslike manner? I do not think it should be impertinent to suggest that we have at least 48 hours to review the bill and prepare amendments. We should also have time

to discuss, debate, and amend it here. Any limitation of debate is unthinkable on a bill of this importance, and particularly one that comes sight unseen.

It is hard to escape the conclusion that we, the Congress, like the Executive and the people, were caught unprepared for the energy problems we face today. Our job is to get prepared in a hurry, pass emergency legislation, and then follow up to improve that legislation. But, if we continue our get out of there as soon as possible pace in our blind attack on energy problems, we will only be guaranteeing that followup is a full-time job. We will also be guaranteeing that the Executive is inadequately armed to deal with the crisis.

We need to slow down and do it right. There seems to be wide agreement that enormous grants of power to the President are needed. Most of us would prefer to do a more complete policy-setting job here in Congress, but, because we are unprepared, we must give the President more power than we would prefer. At the very least, we had better be sure we know what we are giving him.

There is need, of course, for congressional oversight. But it should not be a congressional block. It is one thing to suspend a Presidential order. That seems to me to be a proper exercise of our authority. It is quite a different matter, and a silly one, it seems to me, to allow a Presidential program to fail because of our inaction. The Broyhill amendment, which failed yesterday, is a needed improvement to the bill. Without it, the broad, sweeping powers we claim to the President are a hoax. Absent the Broyhill amendment, all we have given him is the power to ration, and that because we are afraid to have to ratify that political hot potato ourselves.

The more I hear about this bill, the more it seems to be a copout—an inescapable, inevitable copout perhaps, but a copout nevertheless. It may also be a perfect monument to congressional incapacity.

I do not believe any of us has any choice about voting for this bill. It is a monster, but it is necessary. I do not like it. I do not like the way it has been handled. But I shall surely vote for it, because not having any bill would be unthinkable.

The creation of the Federal energy agency alone demands an "Aye" vote. The agency is off to a fast start with a good leader and high morale. We need a legislative basis for FEA just as we need other powers in this bill.

But, I hope we learn some lessons from our current distress. However distasteful it may be, we have to pass the bill. Then let us hope the committee goes back to the drawing board, exercises day-to-day oversight and brings to us, in pieces if necessary, perfecting legislation that can be worked on here in a thoughtful and careful way.

Mr. SHRIVER. Mr. Chairman, as we consider this important emergency legislation to deal with a national energy crisis, I wish to commend the committee for taking necessary action to include in this bill safeguards against unreasonable discriminations and unequitable treatment insofar as fuel allocation is concerned.

On November 25 the President's announcement for major cutbacks in fuel allocations for general aviation sent convulsions through my congressional district and other communities across the country. It was obvious that someone had failed to comprehend the major role which general aviation plays in our national air transportation system.

There were immediate lay-offs in the industry and the eventual loss of 100,000 or more jobs was threatened.

Fortunately, we were able to communicate directly with the President and other high officials in the administration and on December 1 necessary revisions were announced in the original allocation.

Despite the administration's revised allocations which place general aviation on a par with other forms of air transportation, I believe it is important that the Congress establish, through legislation, its determination that there be fairness and equity.

The committee has extended these safeguards to include certain uses such as recreational activities. There are, of course, many areas in this Nation where recreation and tourism provide the base of the local economy. There are industries, which comprise a major sector of our economy, that specialize in the manufacture of equipment for recreational and outdoor activities. For example, one of the Nation's largest manufacturers of recreation and camping equipment is in my congressional district. Unfair allocation and discrimination on gasoline usage in recreational vehicles would cause immediate unemployment.

Access to adequate supplies of fuels is basic to the survival of virtually every commercial enterprise and Government must act with care to assure that its actions are equitable and do not unreasonably discriminate among users.

The term "equitable" should be applied in its broadest and most general sense. No user or class of users should be called upon during this shortage period to carry an unreasonably disproportionate share of the burden.

This is the message which the Congress is sending to those who will administer this emergency program.

Mr. Chairman, my mail has been unusually heavy in recent weeks from constituents who raise reasonable objections to some of the methods suggested for conservation of scarce fuel supplies. The decisions facing the new Federal Energy Administrator are not easy. The American people are being called upon to make significant sacrifices. At the same time, they expect their Government leaders to discharge their responsibilities with evenhandedness, compassion, integrity, and courage.

I am personally opposed to allocation of scarce gasoline supplies through increased taxes. Such action would only impose heavy economic burdens on those least able to afford them. I have serious reservations regarding the need for rationing at this time, and would hope that it would be used only as a last resort. Rationing can only result in the creation of another bureaucratic maze, leading to new frustrations, particularly for those in the moderate- to low-income bracket.

Finally, Mr. Chairman, I concur with my distinguished colleague from Texas (Mr. Pickle) in his separate views on this bill as included in the committee report, especially as they pertain to the so-called windfall profit provision. This provision, as it stands, will severely damage the small independent producers in my State of Kansas.

This is not to say that windfall profits of large energy concerns should be above suspicion or subject to the vigilance of the Government.

However, as the gentleman from Texas has so ably pointed out, the question of profits by oil companies should be examined by the Committee on Ways and Means, along with staff experts of the Joint Committee on Economics. These committees have the expertise to determine how to handle "windfall profits."

I would agree that should price gouging or "windfall profits" prove to be a fact, then the Ways and Means Committee should recommend necessary taxing legislation to serve the public interest.

Mr. FASCELL. Mr. Chairman, I rise in strong support of section 115—prohibitions on unreasonable allocation regulations—of the Energy Emergency Act, H.R. 11450. I highly commend the sponsors of this provision and the House Interstate and Foreign Commerce Committee for its wisdom and foresight in recognizing the special problem this section addresses and taking action to insure the greatest equity in dealing with the energy crisis.

The provision states simply:

Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users.

It is designed to provide, to the maximum extent possible: First, fair treatment of the business segments of our economy, and, second, guidelines for the executive branch in developing and administering energy conservation plans to that businesses and their employees will be treated as equitably as possible. The objective is to avoid Government actions which may bankrupt particular businesses, industries or segments thereof and place thousands out of work through an arbitrary or capricious determination that an industry or segment thereof is totally unnecessary.

We feel the threat of such action very acutely in Florida. While Florida is anxious to cooperate to the fullest extent possible, the persistent accusation that tourism is at the bottom of the priority scale of national needs and therefore should be 100 percent restricted is obviously a factor which greatly concerns us. Tourism is a principal industry of the State. If it suffered a 100 percent reduction in energy allocation it would be disastrous, and the ensuing economic catastrophe would be beyond the capability of the State to absorb.

The severe economic dislocation would undoubtedly be felt nationwide.

Section 115 does not require absolute equality of treatment for all businesses. It recognizes that priorities must, of course, be established. But it does prohibit the administration from taking action which unreasonably discriminates against some users.

Major segments of our national industry—whether it be tourism or general aviation—may be considered nonessential to some. But to the thousands of people who support their families from jobs in those industries, I assure you they are by no means nonessential. They must be treated equitably, and fairly, during the energy shortage.

The Senate has already indicated its support for this position. As you know, an amendment to the daylight saving time bill, H.R. 11324, to require that any petroleum allocation program shall not unreason-

ably discriminate among users or classes of users, was passed by the Senate last week. While the conferees on the bill omitted the provision from the conference bill, they made special note that their action did not indicate any opposition to the provision. The conference reported stated:

The conferees recognized that severe hardships have been imposed on several sectors of the Nation's economy in recent months through administrative decisions which have arbitrarily cut allocations of fuel to whole sectors of the Nation's economy. The Conferees agreed that unreasonable discriminations in fuel allocations must be terminated at the earliest possible date.

Mr. Chairman, the entire Florida delegation shares this special concern, and last week joined in writing to the new energy czar, William E. Simon, pointing out the unique situation which exists in our State. I insert a copy of that letter dated December 6, 1973, for our colleagues information:

HON. WILLIAM E. SIMON,
Deputy Under Secretary of the Treasury,
Washington, D.C.

DEAR MR. SIMON: The citizens of the State of Florida are concerned over the acute and impending shortage of petroleum products affecting our State. Although we recognize that the shortage is being faced by all Americans, Floridians have a unique problem with respect to meeting our energy demands.

Assuming your office allocated petroleum products pursuant to 1972 distribution levels, Florida will suffer shortages dramatically and significantly greater than the nation as a whole. In order that you be apprised of our plight, please consider the following information:

1. Florida's winter in 1972 was 33% warmer than its prior 30 years average.
2. Florida's population growth was among the highest in the nation with an addition of 300,000 residents this year.
3. Our use of residual fuel oil for generating electricity was over twice the national increase: 22.3% to 10.7%.
4. Our use of middle distillates increased at almost 18% compared to the national average increase of 10.7%.
5. Florida's increased gasoline consumption is over twice as great as the national increase: 11.3% to 4.9%.

With a deficit of 15% to 25% in 1972 levels of petroleum products, a return to an average winter climate, an expected increase in the Florida population growth, especially with cold northern residents moving to Florida causing a continuation in the volatile demography of the state, and with the possible loss of these fuels, Florida can realize the most disastrous economic impact of any state in our nation.

Although we feel our goal is to overcome this crisis with our usual national cooperation, Florida will suffer disproportionately to the rest of the nation.

It is certainly quite clear that to pursue different guidelines could bankrupt many businesses or industries. This would be particularly true in Florida if thinking persists that tourism, a principal industry of the State of Florida, is at the bottom of the priority scale of national needs and therefore should be 100% restricted. If this would occur, it would be disastrous to the State of Florida and the ensuing economic catastrophe would be beyond the capability of the State to absorb. The repercussions would be felt nationwide.

As a matter of fact, travel to the South this winter probably should be encouraged. The energy cost of travel would be more than offset by the gain in the availability of heating oil for critical needs in the North.

Furthermore, there is a fear throughout all industry in Florida that because of an arbitrary, capricious, or inequitable determination affecting tourism, travel and all related industries, all economic sectors in Florida are being adversely affected. A 100% restriction of this industry is viewed tantamount to shutting down all factories or mills of a particular industry in another state.

Furthermore, we reject the concept that tourism and related travel can, or should, be totally eliminated in the establishment of priorities for critical needs. In developing and administering energy conservation plans the Administration

must pursue a course of action so that all industries and their employees will be treated as equitably as possible.

We recognize, of course, that priorities must be established and that tourism and related industries may not be on an equal basis with higher national needs, but neither is it necessary to totally destroy the economy of an industry and a state and put hundreds of thousands of people out of work.

Therefore, we sincerely request your particular recognition of the Florida economic problem and urge that you consider these facts in your daily evaluation of fuel distribution.

Sincerely,

Edward J. Gurney, U.S.S., Robert L. F. Sikes, M.C., James A. Haley, M.C., Paul G. Rogers, M.C., Sam M. Gibbons, M.C., J. Herbert Burke, M.C., Louis Frey, Jr., M.C., Bill Gunter, M.C., William Lehman, M.C.

Lawton Chiles, U.S.S., Charles E. Bennett, M.C., Dante B. Fascell, M.C., Claude Pepper, M.C., Don Fuqua, M.C., Bill Chappell, Jr., M.C., C. W. Bill Young, M.C., L. A. Bafalis, M.C.

Mr. FASCELL. Mr. Chairman. I cannot stress enough the importance of insuring in the bill we pass today that we make absolutely clear to the administration that arbitrary discriminatory actions will not be allowed. With the enactment of the provision contained in section 115 the Congress explicitly states its policy intent to the administration. It then becomes incumbent upon us to make sure that congressional intent is clearly understood and faithfully carried out.

We are acting today on a bill which gives the executive branch and the new Federal Energy Administration broad, far-reaching powers. The critical disruption in the petroleum industry appears to warrant the granting of such authority. Based on recent administration decisions, however, I do have reservations about the direction our energy programs and Government policy concerning energy may take. The Congress must not forfeit its responsibility during the energy crisis—we must instead act to set policy guidelines and make absolutely sure that they are honored.

Mr. DE LA GARZA. Mr. Chairman, if the fuel shortage is permitted to give birth to a food crisis in the United States, the present situation will seem like a Sunday school picnic in comparison to what the future may hold.

Farming, as we all know, is no longer carried out by a man with a mule and a plow. Every phase of our vast agricultural industry is highly mechanized—from preparing the soil for planting to the harvesting of crops to the transport of those crops to market. And machines require fuel.

Unless adequate supplies of essential fuel are allocated to people engaged in agricultural pursuits, we will face an extremely serious threat of food shortages—accompanied, inevitably, by higher prices that will place a heavy burden on all consumers, as well as many jobs for all who work in agriculture.

I have reason to know that this danger is already developing. Agriculture is of prime importance in my south Texas district. Daily I am hearing cries of distress from farm producers and ranchers there and from the truck operators upon whom they depend for transporting what they produce. They are not getting the fuel they must have. Their needs cannot be met by slogans and public relations programs, no matter how skillfully constructed.

As the result of hearings conducted by the House Agriculture Committee, on which I serve, agriculture is included in the occupations

given priority under the mandatory fuel allocation program. But a priority is worthless unless it is honored, and the information I receive is that this priority is not being uniformly honored in my area. Suppliers of petroleum say they are unable to fill orders from their distributors. The distributors consequently cannot supply their customers, the food producers and food transporters of south Texas.

Their need is imperative. Their need is now, I cannot see, nor has anyone given me any assurance, that this bill will provide the necessary fuel in a fair and equitable manner.

Mr. HOGAN. Mr. Chairman, I intended to offer an amendment to this bill to insure that fire trucks receive adequate fuel, but the Federal Energy Agency has already provided in its allocations for such emergency vehicles.

In light of the serious energy crisis that faces us, I was concerned that all segments of our society receive just and equal treatment in any measure taken to conserve our energy supplies.

The safety and well-being of our citizens must be of paramount concern. There are certain functions which are vital to the safety of our cities and communities and one paramount importance is our fire departments.

In a recent instance in Washington County, Md., a firetruck pulled into a gas station and was only allowed \$3 worth of gasoline. The consequences of this are evident. These large firetrucks receive approximately 1 to 3 miles per gallon on high test and it does not take much of a mathematician to figure out how far \$3 worth of gasoline will get one of these trucks in the event of an emergency.

In addition, while these trucks are pumping water they must keep their engines operating. Most trucks have the capacity to run for 2½ to 3 hours before they need refueling.

Mr. Chairman, numerous steps have advocated which would help conserve our energy supplies and I am hopeful that the passage of the bill before us today will take us still one step closer to meeting this goal. However, I am concerned that we do not act in haste and forget services which are vitally important to the safety of our cities and communities across the country. The functions performed by our firemen are a prime example.

Those members on the Interstate and Foreign Commerce Committee saw the need to include a provision which would make it a civil violation to deny fillups to trucks on cargo runs. This is understandable when one considers the role that these trucks play in keeping our economy moving.

However, the firemen of this country play a significant role in insuring the safety of our homes, businesses, schools, and other community buildings.

I am pleased that provisions will be made for them. I hope, however, that adequate provision should be made to insure that volunteer firemen are given ample fuel for their personal cars so that they can respond to fires.

Mr. BLACKBURN. Mr. Chairman, today the House of Representatives is considering the National Emergency Energy Act of 1973. This legislation will have a far-reaching effect upon the lives of all Americans. For the first time in our history, the Congress proposes to grant to the

President and the Administrator of the newly created Federal Energy Administration the power to regulate an important facet of our business and personal lives regarding our use of energy. Under the bill which we are today debating, the Administrator could shorten the hours businesses are open and could decide how much fuel any individual can receive for any of the many purposes for which we as individuals use energy.

I am sure that if these were normal times many of the Members who will so strongly support this legislation would rebel at the invasion of individual's privacy as well as the rights which should be left to the discretion of State and local governments. However, the energy shortage which we are facing is not a normal occurrence.

All Members of this body have received numerous communications from their constituents informing them of their preference for either rationing, placing a tax on energy products, or allowing prices of these products to rise in order to allocate them.

I have given a great deal of time and thought to this problem. Needless to say, we will find it necessary to begin curtailing consumption of petroleum products. It has been our previous national experience, except in times of war, to expect and receive a constant expanding supply of petroleum in order to meet our demands for these products. We will undergo considerable discomfort while adjusting to a reversal of this previous experience. Such a reversal will not be easy to accept and will not be made without readjusting our ways of doing business. The standards of comfort and convenience to which we have all become accustomed will be reduced. I share the concern of many of my constituents that no particular facet of our economy should be forced to bear the total burden that is being forced on our society because of our petroleum supply problem.

Those who advocate rationing feel that this method will assure that equal distribution of products to all segments of our society is granted. Frankly, I feel that if we should come to rationing, we will find the heavy hand of Government making arbitrary and sometimes questionable decisions as to true necessity versus pure luxuries and all of the gradients between them. Such judgment would be broad ranging and enforced with the power of law. Individuals and industries adversely affected by Government decisions will find themselves in a hopeless contest with the massive power of the Federal Government against them.

I shudder when I think of the very expensive bureaucracy of administrators and policemen which would be required under rationing. The cost of this bureaucracy would have to be paid by the American people and they will not receive any direct benefit from this investment. In my own opinion, rationing will only decrease the incentive to produce while causing serious disruptions in the economy. Recent experiences with wage and price controls should clearly demonstrate that such Government interference only leads to shortages, inequities, and severe economic disruptions. Such distortions occur because Government decisions are dictated by political pressures many times rather than good business or economic considerations.

It is my feeling that the price mechanism operates best. The best allocator of resources is the price mechanism under a free market econ-

omy whether the resources be beef, bread, or petroleum. Under the price mechanism, we each determine those resources which are vital and necessary to us and which resources are necessary for our comfort and leisure. I believe that the price mechanism is more than adequate to allocate our fuel products and see no reason at the present time for the Federal Government to place an additional tax to allocate petroleum on the American people when we face the prospects of a serious economic decline because of the energy shortage. A very persuasive argument in allowing prices to rise is the fact that prices will serve as a stimulus for increased production. Thus, the price mechanism will serve to stimulate supply while rationing with controlled prices will do nothing to improve the supply.

Frankly, I do not think that prices of petroleum products are going to become so high that any productive citizen will not be able to secure gasoline for his necessary uses. Increased prices will limit use and help eliminate waste. When we pass any high school in America we can see 50 to 100 automobiles that are being driven by students who could have ridden the bus. This only reinforces my belief that we have not become frugal in the use of this vital resource.

Of course, if the price of gasoline increases, the cost of doing business for anyone who uses gasoline in their business would unavoidably be increased which means that the cost of providing their services to the public will be increased. In short, we will have to make some readjustments.

We are bidding for petroleum resources on the world markets against the English, Germans, French, Italians, and Japanese. As they bid higher for these resources from the oil-producing states, we must be prepared to meet their bids, or we will not receive these resources. There is no way that we can insulate ourselves from the influence of world market forces.

The catalyst for bringing this whole problem to public attention was the cutoff of fuel supplies by the Arab nations. The actual loss of fuel from the Middle East will probably come close to 17 percent of our total consumption. We directly imported from the Middle East only 5 to 7 percent of our petroleum products. However, we have been receiving from Western Europe refined petroleum products which had their origin in the Middle East. The loss of these refined petroleum products from Europe, indirectly coming from the Middle East, has considerably aggravated our energy problems.

Many people have advocated that we should withdraw our support from Israel in order to satisfy the oil-producing states of the Middle East and thus receive needed petroleum products. In light of the fact that the United States was instrumental in the establishment of Israel, along with many other nations, I believe that we have an obligation to the Israelis to help them maintain their existence. I am hopeful that present diplomatic initiatives will result in the Arab States recognizing that Israel has a right to exist and that the borders involved can be adjusted in such a way to provide security for all the nations involved.

It has been suggested that the United States should cut off the export of food grains and other materials to Middle East oil-producing countries in order to force them to make shipments of petroleum to us. The oil-producing countries have large monetary reserves and essential

commodities and what they can buy from us can currently be purchased from other sources in the world.

Discussions have been given to the fact that the United States is still exporting petroleum products. In fact, the amount being exported represents only one-tenth of the amount being imported. Thus, if you should stop exporting, other nations could retaliate and we would lose ten barrels for each ten barrels that we might save. Obviously, such a move would not be to our national advantage. Furthermore, for the most part, products being exported are going into Canada and Mexico to serve their border areas as a matter of convenience because their refineries will not normally serve these areas. Both of these countries are exporting to the United States far more than they are importing from us.

I am somewhat encouraged by reports that our consumption of energy for the first time in history has shown a decrease during the past month. This indicates that all of us, whether businessmen or individuals, are making adjustments in our consumption habits so as to insure that we receive the greatest benefit from our energy sources. I have noticed fewer cars on the roads on weekends and those on the highways are driving at reduced speed as compared with even 3 months ago. Lights are no longer prominent in our places of business or highways. Reports from gas and electric companies indicate that people are cooperating in turning back the thermostats in our businesses and homes. All of these conservation measures being practiced by us will have a healthy cumulative effect. Most important, the fact that the American public is accepting these practices indicates that once again they are willing to share necessary burdens for the common good of all of us.

Mr. CAREY of New York. Mr. Chairman, H.R. 11450, over which the House Commerce Committee and the House itself have worked diligently, is a fairly good bill, under the circumstances. But it remains a patchwork—an effort to design emergency legislation under emergency conditions, with little or no cooperation from the executive branch—and certainly no leadership. As I said in my recent remarks during debate on the trade bill, this administration's track record on energy is "dismal—unparalleled."

I shall vote for the bill, because it is the best we could come up with on such short notice. It is an effort by the Congress, starting from scratch, to devise ways and means of confronting the energy crisis and winning. No interest and leadership escaped from the White House on this bill—no great concerted and coordinated effort to marshal the intellectual forces—of the vast executive branch could be noticed by the committee during their herculean efforts.

Mr. Chairman, this bill should pass. We need it, and we need it now. I realized that the initiative on this issue must come from the Congress and for that reason introduced H.R. 11505, the House companion bill to Senator Jackson's bill in the Senate. However, there is much we should be studying and investigating in our efforts to continually improve this bill and others addressing our energy supply and research problems.

As a member of the Ways and Means Committee's task force on energy, I shall be looking into methods of improving our supply of im-

ported petroleum and refined products and in developing a common position of solidarity with which the oil-consuming nations can face the blackmail of the OPEC nations.

Also as cochairman of the Democratic Study Group's task force on energy, along with my friend and colleague, Congressinan McCormack of the Joint Committee on Atomic Energy, I shall be looking for ways in which the United States, through our technology and scientific know-how, will be able to reinstate our research and development leadership, so the world will again beat a path to our doors, to share in the wealth of new energy we shall unlock from oil shale, coal gasification, nuclear, solar, and geothermal sources.

It is in this way that we shall be able to continually improve this new series of energy laws—tailoring them gradually to meet the challenges ahead. They will work now, but these laws will work even better in the future.

Mr. Chairman, in my efforts within both the Ways and Means Committee and the DSG task force, I shall feel fortunate that I have such a long and close relationship with my good friend and colleague, Senator Jackson, chairman of the Senate Interior Committee—the “energy” committee of that body.

With his leadership and that of Chairman Staggers, the Congress will improve on this legislative energy fabric before us. We shall devise a new weave—one strong and resilient—one that shall withstand the tensions and challenges that this Nation faces in the months and years ahead. But that challenge shall find that fabric of national purpose and resolve a tapestry of American life—and each thread of each individual citizen sacrifice will make both the pattern and the strength.

Ms. HOLTZMAN. Mr. Chairman, I rise in support of the amendment—which seeks to limit the bill's antitrust exceptions for oil companies—offered for the distinguished chairman of the Judiciary Committee (Mr. Rodino.) **[Sec. 120.]**

I am amazed at those who want to create for the oil companies broad exceptions from the antitrust laws in the middle of this energy crisis. For as the Federal Trade Commission's recent study shows, the energy crisis is in part a result of anticompetitive practices by the oil companies. Thus if we want to remedy the shortages caused by monopoly-type practices it is imperative that we strengthen enforcement of the antitrust laws against the oil companies rather than relax them as the committee bill seeks to do.

For this reason, I support Mr. Rodino's amendment, although I would have preferred even stronger provisions.

I am, however, somewhat troubled that the Department of Justice will have to enforce the provisions of this amendment. We cannot close our eyes to the fact that the Nixon administration's Justice Department has taken virtually no action against the anticompetitive practices of the oil companies. Nor can we close our eyes to large and sometimes illegal contributions made by major oil companies to President Nixon's campaigns. Can we really expect from this Justice Department the kind of impartial, forthright enforcement of the antitrust laws we so desperately need at this time? Can we really expect from it the proper policing of the limited exemptions to the antitrust laws created in this amendment?

We can take some heart, however, from the fact that the amendment's places equal policing powers in the hands of the Federal Trade Commission.

If this amendment is adopted, these two agencies will have an enormous responsibility to prevent the consumers and small businesses of this country from being fleeced further by the actions of the major oil companies. I earnestly hope that they will carry out this public trust with the energy and impartiality it deserves.

Mr. DRINAN. Mr. Chairman, the Emergency Energy Act which is presently before us for consideration, is a good bill. This bill grants temporary emergency powers to the President to deal with energy shortages.

Title I of this bill amends the Emergency Petroleum Allocation Act, authorizing the President to designate priority users of petroleum products and to allocate petroleum products among those users. The vital services which receive the top priority include, quite properly, new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services. In addition, **title I** requires the President to consult with the Department of Labor with regard to the impact on the Nation's unemployment of the energy shortage.

This title also establishes a Federal Energy Administration. This new, independent regulatory agency will collect information on the energy shortage and make legislative recommendations to the Congress.

Mr. Chairman, I and other Members of the House joined to defeat an amendment which sought to strike congressional control over Federal energy conservation plans. The bill's provision that the Federal Energy Administrator shall propose energy conservation plans to Congress within 30 days was attacked by those who would prefer that Congress not be able to amend such plans. I opposed the amendment because I did not want to give to this administration the absolute power to set all energy policy without regard to the congressional will.

I also opposed an amendment which had the effect of exempting the coal industry from vitally important provisions in this bill which would restrict the receipt of windfall profits by the giant energy companies. Unfortunately, the coal interests prevailed. Nonetheless, the windfall profit section of this bill provides that any person who believes that established prices would allow windfall profits to the giant energy producing companies may petition for a refund and have the Renegotiation Board establish a new sales price which prevents such profits.

I supported the Rodino amendment to this bill which passed by a great margin. The bill as it came to the floor contained provisions exempting oil companies and retail business establishments from Federal, State, and local antitrust laws. As drafted, this bill would have permitted producers, refiners, marketers, and distributors to enter into agreements among themselves governing the retail marketing and distribution of petroleum products. I opposed, along with a majority of the Members of this House, this enormous grant of authority to large oil companies to enter into agreements which would be exempt from antitrust scrutiny.

I am hopeful that in our haste to adequately cope with the energy crisis, we shall not disregard the important environmental protections, such as air quality standards, that we have enacted. I, along with others, have serious misgivings and doubts about the wisdom of exempting actions taken under this bill from the requirements of the Environmental Policy Act of 1969 as called for in **title II** of this bill.

Mr. Chairman, **section 123** authorizes the Federal Energy Administrator to restrict exports of fuels and energy sources, including petrochemical feedstocks. I have sponsored legislation in the House which will prohibit the export of any petrochemical feedstocks until the Cost of Living Council removes the price control regulations on petrochemicals. It is absolutely necessary for the Cost of Living Council to remove its price control regulations on petrochemicals. I shall call upon the Federal Energy Administrator, as soon as this bill is enacted, to do all in his power to stop the export of petrochemical feedstocks which has been so damaging to our plastics industry. The plastics industry in this country has been asked to bear the burden of the shortsighted price controls of the Costs of Living Council.

Mr. Chairman, the administration wants to hire 250 oil company executives to help implement the Emergency Energy Act. I will oppose any amendment which exempts these oil company executives from Federal conflict-of-interest laws. If oil company executives want to join in the effort to come to some sensible decisions on energy policy, then they should be willing to give up their extremely lucrative jobs to help solve the crisis which they and their companies helped create. Nothing could be less appropriate than having highly paid oil company executives participate in decisions which will affect the supply and distribution of the petroleum companies to whom they owe their primary allegiance. Exempting these executives from conflict-of-interest laws would give them a one-way ticket to what could be the final raid on the American people by the giant oil companies.

I am hopeful that this bill will be a major step forward to achieving a meaningful national energy policy worked out with the cooperation of the Congress and the executive branch.

Mr. STAGGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair. Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes, had come to no resolution thereon.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. Baker) is recognized for 5 minutes.

Mr. BAKER. Mr. Speaker, in compliance with rule XXIII of the House of Representatives, I am submitting for the Record an amendment I intend to offer at the appropriate time to the Staggers substitute for H.R. 11450.

Following is the text of the amendment which I will support by explanation at the time of presentation:

Amendment to be offered by Mr. Baker, of Tennessee, to the amendment (H.R. 11882) in the form of a substitute offered by Mr. Staggers, of West Virginia:

On page 15 [Sec. 106], strike lines 13 and 14 and insert in lieu thereof the following:

"(d) Coal production authority.—The Administrator may take such actions as are necessary to assure an adequate supply of coal to attain the objectives of this section, including, but not limited to, the granting of exemptions from provisions of the Economic Stabilization Act which inhibit the ability of coal producers to obtain the necessary equipment and personnel for production and distribution of coal; and the granting of exemptions, on a case-by-case basis, from provisions of the Federal Coal Mine Health and Safety Act, in such cases as mines located above the water table or in which methone has not been detected as prescribed in section 303(h) of such Act, where it has been determined (1) that such provisions substantially reduce the ability of the producer to provide necessary supplies of coal in an economical manner, and (2) that the exemption will not materially affect the health and safety of employees of that producer."

"(e) Expiration.—The authority under this section (other than subsections (b) and (d) shall expire on May 15, 1975."

**HOUSE DEBATE AND PASSAGE OF H.R. 11450,
DECEMBER 14, 1973**

ENERGY EMERGENCY ACT

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11450, with Mr. Bolling in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday there was pending the amendment in the nature of a substitute which constitutes the text of the bill H.R. 11882 offered by the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words. I would like to have an understanding with the ranking Republican member of the Committee on Interstate and Foreign Commerce.

Mr. DEVINE. Mr. Chairman, we have spent approximately 20 hours on this legislation thus far. It is my understanding that currently at the Clerk's desk there are pending 63 amendments, an increase of 5 since yesterday, 25 of which are from members of the Committee on Interstate and Foreign Commerce.

We have had a rather considerable discussion on both sides here as to a possible termination of the debate on this matter and ultimate disposition.

We have no desire to cut anyone off. Since there are so many amendments pending, we have tentatively agreed, subject always to the approval of the Members of the House, to permit the time of 10 minutes for each amendment, to be divided 5 minutes to the author of the amendment and 5 minutes for the opponents.

On important amendments, if Members wish to be heard, an additional 10 minutes will be granted the persons standing at the time the request is made.

We have not suggested any final time for disposition. That will come at a later time when we see how we get along with these amendments.

I think the chairman would like to ask unanimous consent that this agreement be approved, unless there is some objection as it relates to handling of amendments.

Mr. DANIELSON. I would like to ask whose judgment we are to rely on as to what is and what is not an important amendment?

Mr. STAGGERS. I might say to the gentleman that we have to rely on every Member of the House. The proposal is to ask for unanimous consent for the additional 10 minutes of debate.

Mr. DANIELSON. Mr. Chairman, I should like to make the statement that I do not delegate that authority to anybody.

Mr. STAGGERS. The gentleman has that authority himself. We are not trying to take that authority away.

Mr. SARASIN. Has the gentleman considered the effect of the 10-minute rule on amendment to those Members who have protected themselves for 5 minutes by publication of their amendments in the Congressional Record.

Mr. STAGGERS. They get their 5 minutes. That is what the gentleman from Ohio said. The proponents get 5 minutes and that right would certainly be protected.

Mr. SARASIN. It is my understanding that all the proponents would have 5 minutes. The question is about the Members who have protected their rights for 5 minutes for themselves.

Mr. STAGGERS. He would have his 5 minutes, if it is set in the RECORD.

Mr. SARASIN. I thank the gentleman.

Mr. WYMAN. At the conclusion of the 10 minutes, which has been suggested by the gentleman from Ohio and by the chairman, how is the determination to be made as to whether or not there will be an additional 10 minutes given on a particular amendment?

Mr. STAGGERS. They would have to ask unanimous consent and I think it would be granted.

Mr. DEVINE. In order to make myself perfectly clear, each proponent of an amendment would be entitled to 5 minutes. The opponents also would be entitled to 5 minutes.

Anyone else wishing to speak on the amendment could do so within the 10-minute period.

Mr. STAGGERS. Mr. Chairman, I would like to say this: The Chair is going to suggest to the Members of this Committee, and I do not know whether they are all here or not, and this would have to be an agreement because I know the Chairman of the full Committee of the Whole is bound by certain rules; but we would have one amendment from the Committee and one amendment from those Members who do not belong to the Committee, and the Chair will do his best to see that that procedure is followed.

Mr. STEIGER of Wisconsin. Mr. Chairman, I regretfully seek on the gentleman's time to state my judgment on this issue. There are some massively important amendments which will profoundly touch almost everybody in this country, as the gentleman said at the outset of debate on this bill.

If there are 60 amendments and if we as a legislative body are to attempt to make a determination on the basis of 10 minutes debate on whether or not we will have emission requirements or allocate fuel oil across the United States, I think we make a terrible mistake. If the

request is sought, this one Member would respectfully say that he would object to the request.

Mr. DENNIS. Mr. Chairman, I would like some additional clarification either from the Chairman or the distinguished gentleman from Ohio (Mr. Devine) about this additional 10 minutes. I would just like to understand the proposition.

Mr. Chairman, I just want to understand this, I get the idea that the proponent gets 5 minutes, and the opponent gets 5 minutes, but how about this additional 10 minutes? If I understood the gentleman from Ohio, a Member gets that only if someone does not object; is that correct? Is that the answer? A Member gets the additional 10 minutes only if no one objects?

Mr. STAGGERS. Mr. Chairman, that was the understanding.

Mr. DENNIS. Mr. Chairman, I would not go along with that either, for whatever that may be worth.

The CHAIRMAN. There is no unanimous consent request pending.

AMENDMENT OFFERED BY MR. ADAMS TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ADAMS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Adams to the amendment in the nature of a substitute offered by Mr. Staggers: On page 26, beginning at line 12 strike all of section 114 down to and including line 3 on page 29 and renumber the following sections accordingly.

Mr. ADAMS. Mr. Chairman, this is the second part of the issue that the House decided early on in these proceedings involving exemption from the antitrust laws of the United States, and that is the reason why we are trying to bring it on early today, so that the House can pass on **section 114**.

Mr. Chairman, I am not going to make a lengthy statement about it, but instead I am going to yield to members of the Judiciary Committee.

We tried to work out an agreement or a proposal to limit the exemption to the antitrust laws that is in **section 114** of the bill similar to what was done in section 120. We were not successful in doing so, and, therefore, what I have offered is a simple motion to strike.

This would strike **section 114** which is a section that allows a retail business to get together, and enter into an agreement, to restrict hours, restrict operations, and so on, in retail establishments.

I think this portion of the bill is very dangerous, because what it does is to allow major concerns in a shopping center such as major department stores or the major distributing outlets for a food chain, to get together and decide that they are going to turn all the lights off at 7 o'clock at night or at 6 o'clock at night, which will effectively put out of business the 7-11 Store, the little camera store, and the other small businesses that are in that area who depend upon that business as their lifeblood.

Mr. Chairman, we should not in this bill, grant an exemption from the antitrust laws to retail shopping centers, and I hope the Com-

mittee will strike it. This is the second part to the action that the Committee took in limiting severely **section 120**, which was an exemption from the antitrust laws for the oil companies.

I announced early in the debate that I would do this and now the time has arrived and I hope the Committee will support my motion to strike.

Mr. Chairman, in the interest of saving time, I am going to yield first to the gentleman from Ohio (Mr. Seiberling) from the Committee on the Judiciary, and then I will yield to Members on the other side.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for yielding. I must confess that I do not have the same strong sense of unease about **section 114** as I did about **section 120** before we revised it.

However, I do not think we should lightly enact exemptions to the antitrust laws. We should not do so unless there is a clearly demonstrated need.

Now, I personally feel that we must do everything we can to protect small grocery stores and similar retail outlets from being discriminated against under this legislation, and, in fact, I have an amendment at the desk by which I hope to make it clearer that they are not to be discriminated against.

But I do not see any great need for **section 114**, in the first place.

In the second place, I can see possibilities of severe injury and prejudice to small business. For example, suppose the large retail establishments in a particular community decide that they want to restrict the use of the United Parcel Service and they restrict it in such a way that it prejudices the smaller outlets rather than the big ones. What is going to be the redress that they have, that the small outfits have? The so-called voluntary agreements could include penalties against small businesses violating the agreements. So they could be used to drive out of business competitors of the larger chains.

So I think there are dangers unless the normal antitrust law protections are applied.

Third, many small retail establishments, because they are purely local and not in interstate commerce, are not subject to our national antitrust laws. State antitrust laws may affect them, but I do not really see that we have any right to supersede State antitrust laws unless there is a clearly demonstrated need. Yet that is what **section 114** would do.

Finally, let me say that the Administrator himself has the power to control office hours and to control other areas of energy consumption, and it seems to me that is quite adequate. Therefore, I would recommend striking **section 114** as being unnecessary, dangerous, and potentially harmful to small business.

Mr. McCLORY. Mr. Chairman. I supported the other amendment which was offered with respect to **section 120**, but I am going to object to deleting **section 114**. It seems to me that in order to get the voluntary cooperation of these literally thousands of retailers, we need to provide the kind of protection from the antitrust laws which the section provides.

As I see it, the section is limited to the purposes of carrying out this act and does not grant blanket exemption from the antitrust laws nor does it excuse violations of the antitrust laws in areas of activities unrelated to this act.

Mr. YOUNG of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address myself to certain points which are involved in **section 114** in an attempt to show **section 114** is very desirable with respect to the objective of this act, that is to save energy.

I point out that the wording of this section refers to voluntary agreements. In other words, if the merchants in a shopping center desire to get together voluntary and to make an agreement that they will be open only at certain times or that one store will be open to serve the public for a certain segment of hours and another store furnishing the same type of services will be open for another segment of time, then this section will permit them to do that legally without being in violation of any agreement either to divide customers or to divide markets. Therefore this section is highly desirable.

I pointed out that if there is a merchant in a shopping center who disagrees, he will not be bound by this agreement because this is a voluntary type of agreement. So, if there are other merchants in the same shopping center who object to these voluntary agreements, they just do not have to participate in them.

Mr. McCLORY. I know the gentleman as an authority and an experienced lawyer in the field of antitrust law.

It is my understanding, as the gentleman states, for this program to be successful, it is essential that we have the voluntary cooperation of these literally thousands of retailers. To suggest that by voluntary cooperation they could at the same time be subject to being in violation of the antitrust laws is unthinkable.

Such a risk could defeat what we are trying to accomplish here. Therefore I think it is essential to insure their cooperation and to insure that they will not be subject to violation of the antitrust laws if they enter into this type of agreement.

Mr. YOUNG of Illinois. That is correct. In the shopping centers there are many large companies such as Montgomery Ward and Sears, Roebuck and various food chains who are very much subject to antitrust laws. Without this provision in this section they will not be able to cooperate and make the energy savings which will ultimately benefit the public.

Let me point out the safeguards here. The safeguards provide that any such statement which is promulgated or which would be initiated by the merchants would have to be adopted and approved by the administrator who submits copies to the Attorney General and to the Federal Trade Commission. If there are meetings held to implement it, these meetings have to be in written form and interested persons can give their views in writing on them. A written summary has to be kept and only actions in good faith and within the limits of the exception are exempted from the antitrust laws.

Mr. DENNIS. The gentleman makes the point—and I want to be clear on this—that the agreements we are talking about are purely voluntary. No one has to enter into them. Is that right?

Mr. YOUNG of Illinois. That is correct.

Mr. DENNIS. Suppose one does enter into them and later wishes to withdraw from it. What is the situation then?

Mr. YOUNG of Illinois. If they enter into a voluntary agreement, it would be any understanding that the agreement would be then enforceable if they voluntarily entered into it.

Mr. DENNIS. So that once a person gets in it is the gentleman's understanding he cannot get out of the agreement here without a penalty. Is that correct?

Mr. YOUNG of Illinois. I cannot give the gentleman a definitive answer on that. I suppose we have to await a court decision.

Mr. DENNIS. It might depend on the agreement. But what I am getting at here is does it depend on the law or does it depend on what is agreed to. In other words, the agreement might say that you cannot get out, but suppose it is silent on that.

Mr. BROWN of Ohio. Throughout the provisions of this bill the term "voluntary agreement" is used. In certain interpretations a voluntary agreement is one that is freely entered into and freely gotten out of. There is a provision that is very carefully drawn in the legislation before us that provides that these agreements are monitored in their preparation and in their writing by the Attorney General and the Federal Trade Commission.

Mr. YOUNG of Illinois. That is correct.

Mr. BROWN of Ohio. It seems to me that the Attorney General and the Federal Trade Commission could not force somebody staying in an agreement that has been drawn as an exemption to the antitrust provision.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I wonder if we cannot get some agreement on time to be spent on this amendment. I think the two gentlemen who have been talking, one for the amendment and one against, have explained the amendment pretty well. So I wonder if we could have an agreement that all debate on the amendment stop in 10 minutes.

The CHAIRMAN. Does the gentleman wish to make a unanimous-consent request as to that?

Mr. STAGGERS. Yes, Mr. Chairman, I do.

Mr. Chairman, I ask unanimous consent that all debate on the pending amendment in the nature of a substitute close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, as the author of the pending amendment I would prefer that the gentleman from West Virginia would be willing, as the author of part of the legislation being attacked by the amendment, if the gentleman will do it, that I be permitted to take my 5 minutes on the amendment first. I would like to have my 5 minutes first on the amendment, and then apportion the balance of the time.

Mr. STAGGERS. I would be willing to ask for 5 minutes after the gentleman has spoken because the gentleman was a proponent of the amendment in the committee.

Mr. BROWN of Ohio. I would have no objection to that.

Mr. STAGGERS. Mr. Chairman, I withdraw my unanimous-consent request.

Mr. Chairman, I ask unanimous consent that all debate on the pending amendment in the nature of a substitute close in 5 minutes after the gentleman from Ohio (Mr. Brown) has spoken for 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

[There was no objection.]

The CHAIRMAN. The Chair will state that the Members who were standing at the time of the unanimous-consent request will be recognized after the gentleman from Ohio (Mr. Brown) has spoken for 5 minutes, their time to be divided into the remaining 5 minutes.

Mr. BROWN of Ohio. Mr. Chairman, the purpose of section 114, the limited retail antitrust exemption, is simply to provide a temporary and carefully circumscribed exemption from the antitrust laws for the 1.5 million retailers around the United States to enter into agreements so that they can help conserve energy.

We have worked our will on this piece of legislation for a couple of days, and the result of what we have done is not to provide much in the way of new energy and to delimit what is in the legislation or what was in the legislation when it came out of the committee in the vehicles for conserving energy. I am not sure what the benefit of what has been done in total is going to be, but certainly we ought to have, in addition to what is in the mandatory fuel allocation legislation, the right to ration; we ought to have some method by which we can have voluntary agreements on the conservation of energy. And that is what this retail amendment was aimed at.

Two things are essential, I think, if we are to see the retailers participate in this. The first thing is that we have to have some kind of national plan that says everybody ought to cut down their hours by 20 percent, or 2 hours a day, and we have that; then it seems to me in the varying frameworks in which retailers operate around the country in small villages, big metropolitan shopping centers, big downtown centers, that there ought to be some freedom for these retailers to get together and decide what their hours will be, what the service will be that they can provide in terms of delivery, and so forth. There is no way that the retailers such as Sears, Penney's, and the little mom-and-pop haberdashery stores can agree now that they will let the Sears truck for instance, make all the deliveries in an area.

It seems to me that that would violate the provisions of the antitrust legislation. There is no way legally that they can get together and decide on the hours that one shopping center will be open and the hours that other shopping centers would be open, which would be different, so that people would be served differently. There is literally no way that major stores could get together and say, well, because we all will be limited, we will be open in the morning for the convenience of customers in the area, and somebody else will be open in the evening, and we will limit the hours to those.

So we must have some method of agreement, and that is what this section of the bill is aimed at. The method by which we do that is to provide that they may have meetings, and, if they do, that they keep transcripts of those meetings to form plans, that those meetings may be attended by a Federal official, that the Attorney General and the Federal Trade Commission have copies of the agreements, that the public be invited in for those meetings, that prior notice of the meetings be given all to develop the plan, and once the plan has been developed, the Attorney General may disapprove it and thereby withdraw

prospectively the immunity which would otherwise have been conferred.

If we are going to require extensive requirements for implementation of that plan, that would be worse than having no plan at all. Obviously, in a small community where all of the merchants get together at 10 o'clock in the morning for coffee every day, as they do in my community, one is not going to have to call up the postmaster and have him sit down and keep notes of the meeting. The implementation is left somewhat freer than the drawing of the plan, but the plan must be approved by the Federal Trade Commission and by the Attorney General. Once it has been approved, as it operates and as it is monitored by the officials of those two antitrust operations, if they feel that the plan is limiting competition, is hurting business, is putting somebody else out of business, what they can do at that point—these government officials—is step in and stop the plan forthwith.

Any action that is taken after that would mean that everybody participating in that agreement would be subject to antitrust violation or prosecution. I see nothing wrong with that in terms of trying to accomplish the purposes of this legislation. If we take this out, we merely prohibit retailers from having the opportunity to even plan how they will implement the effects to conserve energy.

Mr. YOUNG of Illinois. Is it the understanding of the gentleman from Ohio that if the Attorney General, for example, were to approve one of these voluntary agreements, and later it came to his attention that there was something noncompetitive being developed through these agreements, the Attorney General could withdraw any such approval?

Mr. BROWN of Ohio. Absolutely, and any place in the country, whether it is a big shopping center or a small town. That is why I think that part of the legislation, when I presented this amendment in the committee, passed by an overwhelming vote, about 3 to 1, as I recall. It seems to me that to strike it from the legislation now is a very serious mistake.

Mr. SEIBERLING. Mr. Chairman, the statement that these are purely voluntary overlooks the reality of group pressure on the small outlets. Once they get into a so-called voluntary agreement, then the language of this provision permits the agreement to be implemented, and that means it could be policed, and that means there could be all kinds of pressure brought to bear.

On December 7, Mr. Kauper, the Assistant Attorney General in charge of the Antitrust Division, wrote a letter to the chairman of our committee, Mr. Staggers, asking that **section 114** be deleted, stating that it is unnecessary. I agree with him. It is unnecessary. It is dangerous. It should be stricken.

Mr. McCLORY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Washington (Mr. Adams). It seems to me that to grant extensive exemption from the antitrust laws as we have in **section 120** with regard to the big producers, and to deny any exemption whatsoever to the thousands of retailers on whom we are going to depend primarily for cooperation and support in connection with the success of this program, would be an unrealistic and incomprehensible thing for us to do. This section is an essential part of the pending legislation, and I hope that the amendment will be defeated.

To delete the section would threaten the success of the entire voluntary program—as proposed in this bill.

Mr. HUNGATE. Mr. Chairman, I rise in opposition to the amendment although I supported the amendment to **section 120**. I think that on balance this law No. 114 as is will be fairer and more equitable to the small businessmen. I think if there are any sections of our law that need a fresh approach it is the antitrust law. I think we need to take a fresh look at the antitrust law but I believe the law as is, is preferable to the proposed amendment to **section 114**.

My subcommittee on the House Select Committee on Small Business has just completed its second set of hearings on the problems faced by small independent retail pharmacies as a result of the Justice Department's interpretation of these laws, and on the basis of these hearings, I can say that unless something is done about these laws, 30,000 pharmacists who are small businessmen could go out of business.

Five years after discussions with the major insurance companies, the large unions bargained to have the cost of prescription drugs included as part of their health care fringe benefit. This very quickly became a standard benefit until today, these programs pay for over 40 percent of the prescription drugs dispensed in this country and this percentage is expected to increase to 80 percent within the next 5 years.

The insurance company then goes to the neighborhood pharmacist and tells him that a sizable number of his clients belong to its program and unless he agrees to provide drugs under its program and at its cost, he would lose these people as clients. The offer is made on a "take it or leave it" basis and since a small businessman just cannot afford to lose 30 or 40 percent of his clientele, in effect, he has received "an offer he cannot refuse." Otherwise, he would go broke. Then he finds out he may go broke even if he joins.

The reason for this is the insurance companies established the fee he was to receive for each prescription he dispensed under their programs and they did so without consulting the pharmacist. Indeed, the companies claimed they could not discuss the fee with the pharmacist because that would be price fixing, and thus, violate the antitrust laws.

Thus, the pharmacist found himself being in the position of having to join these programs or lose almost half of his clientele. In Illinois, 90 percent of all pharmacists belong to just one program administered by Metropolitan Insurance Co. And so, if the pharmacist was not satisfied, the company told him he could withdraw. After all, what did one pharmacist mean when 90 percent belong. He could not get together with other pharmacists similarly situated because that would be a joint conspiracy to fix prices. And they could not agree that they would jointly refuse to participate because that would be a group boycott.

Let me point out that this not only endangers the continued existence of this vital sector of our small business economy but also hurts the consumer, for each participating pharmacist is paid the exact same fee for each prescription he dispenses, regardless of the additional services he provides. Thus, a pharmacist who is open 24 hours a day and who provides free delivery service and security guards and free parking and monitors drug usage to be sure that doctors do not prescribe drugs which will react adversely with one another, is paid the same fee as the pharmacist who provides none of these services. Thus, these pro-

grams discourage the improvement and expansion of pharmacy services which would benefit the consumer because these additional services increase the cost of doing business and when you are paid the same fee as someone who does none of these, and you are in danger of losing money, you are likely to stop providing these services.

So the antitrust laws are not only endangering the continued existence of the small independent retail pharmacist, but they are also retarding improved health care services for the consumer.

One might ask then who it is that the antitrust laws are protecting. In this situation they are being used to shield the large union, the large company and the large insurance company from the individual, independent retail pharmacist. Anyone who thinks that these parties have equal bargaining power and that justice requires preventing two independent pharmacists from cooperating to obtain a fee that adequately reflects their cost of doing business and equitably reimburses them for the service they provide to the community has a unique view of the proper role of law in our society.

The role of the antitrust laws in this equation in treating big business, big labor, big insurance companies, and the small independent retail pharmacy as equals in this bargain is reminiscent of the story of "what is justice?"

The answer came "Justice is the greatest good for the greatest number."

And what is the greatest number?

No. 1.

In practice the antitrust laws treat the big boys as No. 1 in these third-party prepaid prescription programs and the small independent businessman pharmacist comes in last.

I repeat, the law's application in this situation deserves reexamination.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the amendment. If there is any common complaint that runs through my mail on the energy crisis it is "Why do we let the large shopping centers continue their 24-hour, 7-day-a-week, retailing business when I am asked to reduce my own energy consumption?" It seems to me **section 114** will give retail merchants a chance to make voluntary agreements to save energy consumption.

If we eliminate **section 114**, we will either deny to the retail merchants the ability to make mutual agreements without antitrust complications, or we will cloud the agreements. The bill itself would encourage merchants to reduce hours of service, consolidate services, et cetera. They can modify hours and services jointly or on a staggered basis to serve the needs of the public.

States and local governments may still want to limit retailing, and that is well and good. But we ought to give local retailers a chance to do it themselves first.

Section 114 applies the antitrust exemption only to retailers and only to energy conservation plans. Agreements must follow FEA guidelines and copies will go to the Antitrust Division of the Justice Department, and the FTC. There are plenty of safeguards.

I urge we vote down the Adams amendment.

Mr. DRINAN. Mr. Chairman, I support the motion of my colleague, Mr. Adams, to delete **section 114** from this bill.

Section 114 would permit the larger retailers to dominate the small, to the detriment of the smaller retailers. Mr. Kauper, the Assistant Attorney General in charge of the Antitrust Division has in fact written to Mr. Staggers, indicating that he felt that **section 114** was unwise.

Section 114, in its present form, violates the spirit, if not the letter, of the antitrust laws. I believe that we should limit the exemptions that are provided within this bill from the antitrust laws in order to insure against anticompetitive practices and to enact competitive safeguards.

Section 114 is overbroad. The present language of the bill could create a unique prosecutorial burden of having to show that challenged behavior is outside the scope of immunity. This burden is properly on the party best able to produce appropriate evidence. Obviously, the burden should be on the retailers and not on the Government.

I opposed the similar language in **section 120** of this bill, when I supported the distinguished chairman of the Judiciary Committee in his successful amendment to **section 120**.

Mr. Chairman, the "good faith" standard is an unacceptable one. Antitrust laws already provide a "rule of reason" as a judicial standard. The proposed "good faith" standard would place on the Government the burden of not only obtaining evidence as to whether or not retailers had acted in good faith, but also the burden of negating that evidence. Most areas of the law which provide a "good faith" defense provide it as an affirmative defense, and not a part of the prosecution's affirmation burden. We must be extremely cautious in creating this escape hatch for big retailers who band together and make decisions affecting small retailers and consumers.

Mr. Chairman, the present **section 114** contains an unfettered immunity provision for the retail business community.

I fully recognize that during the energy emergency, voluntary agreements, such as those contemplated by **section 114**, may be necessary to implement conservation policies. While such agreements in and of themselves may not necessarily amount to violations of the antitrust laws, they certainly present opportunities for abuse. The protection provided by the laws for such abuses are contained in the antitrust laws, and for that reason the exemption in **section 114** is particularly dangerous.

Mr. STAGGERS. Mr. Chairman, I would like to remark that we did amend **section 120** to substantially limit its applicability. I think it is only consistent that we follow on that action and take the further step of deleting in this section. I urge the passage of the amendment.

Mr. BROWN of Ohio. Mr. Chairman, since this refers to the antitrust laws as they now exist, I would like to ask the chairman of the Interstate and Foreign Commerce Committee, in view of a couple of the remarks made on his side of the aisle, if anybody in this body knows what the Attorney General or Justice Department has approved. I think they have not approved of it.

Mr. STAGGERS. Mr. Chairman, I did get a personal letter from the Justice Department, the Assistant Attorney General, who definitely was against this provision and hoped the House in its wisdom would delete it.

Mr. MCCLORY. Mr. Chairman, if the gentleman will yield, we did not knock out **section 120**, we revised it. This would knock out the anti-

trust provisions with respect to the small retailers. So there is that difference.

Mr. STAGGERS. I agree with the gentleman. We did amend section 120, we did not knock it out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. Adams) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and on a division (demanded by Mr. Adams) there were—ayes 51, noes 54.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 223, not voting 39, as follows:

[Roll No. 667]

AYES—170

Abzug	Denholm	Holifield
Adams	Derwinski	Holt
Addabbo	Diggs	Holtzman
Alexander	Dingell	Howard
Anderson, Calif.	Donohue	Johnson, Colo.
Annunzio	Drinan	Jones, Tenn.
Ashley	Dulski	Jordan
Aspin	du Pont	Kastenmeier
Badillo	Eckhardt	Kluczynski
Barrett	Edwards, Calif.	Koch
Bergland	Eilberg	Kyros
Biaggi	Evans, Colo.	Lehman
Bingham	Evins, Tenn.	Long, La.
Blatnik	Fascell	Long, Md.
Boggs	Findley	McCormack
Boland	Fish	McFall
Brasco	Flood	McKay
Breckinridge	Flowers	Macdonald
Brinkley	Foley	Madden
Brooks	Fraser	Matsunaga
Brown, Calif.	Fulton	Mazzoli
Burke, Mass.	Gaydos	Meeds
Burlison, Mo.	Gaiimo	Melcher
Burton	Gibbons	Mezvinsky
Butler	Gilman	Miller
Casey, Tex.	Gonzalez	Minish
Chappell	Grasso	Mink
Chisholm	Green, Pa.	Mitchell, Md.
Cohen	Griffiths	Moakley
Collins, Ill.	Gude	Morgan
Collins, Tex.	Hamilton	Moss
Conte	Hammerschmidt	Murphy, Ill.
Conyers	Hanley	Murphy, N.Y.
Corman	Hanna	Natcher
Cotter	Hansen, Wash.	Nedzi
Cronin	Harrington	Nix
Culver	Hawkins	O'Neill
Daniels, Dominick V.	Hechler, W. Va.	Owens
Danielson	Heckler, Mass.	Patten
Delaney	Helstoski	Pepper
Dellums	Hicks	Perkins

Peyser	Sarbanes	Vigorito
Podell	Schroeder	Waldie
Price, Ill.	Seiberling	Whalen
Rangel	Shipley	Wiggins
Reuss	Smith, Iowa	Wilson, Bob
Rinaldo	Staggers	Wilson, Charles H., Calif.
Rodino	Stanton, James V.	Wilson, Charles, Tex.
Roe	Stark	Wolff
Rogers	Stubblefield	Wright
Roncalio, Wyo.	Stuckey	Wylie
Rosenthal	Studds	Yates
Roush	Symington	Yatron
Roy	Thompson, N.J.	Young, Ga.
Roybal	Thornton	Young, S.C.
Ryan	Tiernan	Zablocki
St Germain	Vanik	

NOES—223

Abdnor	Devine	Karth
Anderson, Ill.	Dickinson	Kazen
Andrews, N.C.	Dorn	Kemp
Andrews, N. Dak.	Downing	Ketchum
Archer	Duncan	King
Arends	Edwards, Ala.	Kuykendall
Armstrong	Esch	Landgrebe
Ashbrook	Eshleman	Landrum
Bafalis	Fisher	Latta
Bauman	Flynt	Leggett
Beard	Forsythe	Lent
Bennett	Fountain	Litton
Bevil	Frelinghuysen	Lott
Biester	Frenzel	Lujan
Blackburn	Frey	McClory
Bowen	Froehlich	McCloskey
Bray	Fuqua	McCollister
Breaux	Gettys	McDade
Broomfield	Ginn	McEwen
Brotzman	Goldwater	McKinney
Brown, Mich.	Goodling	McSpadden
Brown, Ohio	Green, Oreg.	Madigan
Broyhill, N.C.	Gross	Mahon
Broyhill, Va.	Grover	Mailliard
Buchanan	Gunter	Mallary
Burgener	Guyer	Mann
Burke, Fla.	Haley	Maraziti
Burleson, Tex.	Hanrahan	Martin, Nebr.
Byron	Hansen, Idaho	Martin, N.C.
Camp	Harsha	Mathias, Calif.
Carney, Ohio	Harvey	Mathis, Ga.
Carter	Hastings	Mayne
Cederberg	Hébert	Michel
Clancy	Heinz	Milford
Clausen, Don H.	Henderson	Mills, Ark.
Cleveland	Hillis	Minshall, Ohio
Cochran	Hinshaw	Mitchell, N.Y.
Conable	Hogan	Mizell
Conlan	Horton	Mollohan
Coughlin	Hosmer	Montgomery
Crane	Huber	Moorhead, Calif.
Daniel, Dan	Hudnut	Moorhead, Pa.
Daniel, Robert W., Jr.	Hungate	Mosher
Davis, Ga.	Hutchinson	Myers
Davis, S.C.	Jarman	Nelsen
Davis, Wis.	Johnson, Pa.	Nichols
de la Garza	Jones, Ala.	Obey
Dellenback	Jones, N.C.	O'Brien
Dennis	Jones, Okla.	Parris

Passman	Ruppe	Teague, Calif.
Patman	Ruth	Thomson, Wis.
Pettis	Sarasin	Thone
Pickle	Satterfield	Towell, Nev.
Pike	Scherle	Treen
Poage	Schneebeli	Ullman
Powell, Ohio	Sebelius	Van Deerlin
Preyer	Shoup	Vander Jagt
Price, Tex.	Shriver	Veysey
Pritchard	Shuster	Waggonner
Quie	Sikes	Wampler
Quillen	Sisk	White
Railsback	Skubitz	Whitehurst
Randall	Slack	Whitten
Rarick	Smith, N.Y.	Widnall
Rees	Snyder	Winn
Regula	Spence	Wydler
Rhodes	Stanton, J. William	Wyman
Roberts	Steed	Young, Alaska
Robinson, Va.	Steelman	Young, Fla.
Robison, N.Y.	Steiger, Ariz.	Young, Ill.
Roncallo, N.Y.	Steiger, Wis.	Young, Tex.
Rooney, Pa.	Stratton	Zion
Rose	Symms	Zwach
Rostenkowski	Talcott	
Rousselot	Taylor, N.C.	

NOT VOTING—39

Baker	Ford, William D.	Runnels
Bell	Gray	Sandman
Bolling	Gubser	Steele
Brademas	Hays	Stephens
Burke, Calif.	Hunt	Stokes
Carey, N.Y.	Ichord	Sullivan
Chamberlain	Johnson, Calif.	Taylor, Mo.
Clark	Keating	Teague, Tex.
Clawson, Del.	Metcalfe	Udall
Clay	O'Hara	Walsh
Collier	Reid	Ware
Dent	Riegle	Williams
Erlenborn	Rooney, N.Y.	Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WYMAN TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. WYMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 202] offered by Mr. Wyman to the amendment in the nature of a substitute offered by Mr. Staggers: On page 59, after line 23, insert the following:

(1) [Sec. 202(b)] of the Clean Air Act (42 U.S.C. 1857) is amended by adding at the end thereof the following:

“(6) (a) Notwithstanding any other provision of law, the authority of the Administrator to require emissions controls on automobiles is hereby suspended except for automobiles registered to residents of those areas of the United States as specified by subsection (b) of this section, until January 1, 1977, or the day

on which the President declares that shortage of petroleum is at an end, whichever occurs later.

(b) Within 60 days after the date of enactment of this paragraph, and annually thereafter, the Administrator shall designate, subject to the limitations set forth herein, geographic areas of the United States in which there is significant air pollution. The Administrator shall not designate as such area any part of the United States outside the following Air Quality Control Regions as defined by the Administrator as of the date of enactment of this paragraph without justification to and prior approval of the Congress.

- (A) Phoenix-Tucson, intrastate.
- (B) Metropolitan Los Angeles, intrastate.
- (C) San Francisco Bay area.
- (D) Sacramento Valley area.
- (E) San Diego area.
- (F) San Joaquin Valley area (California).
- (G) Hartford-New Haven (Conn.-Springfield (Mass.)) area.
- (H) District of Columbia, Maryland and Eastern Virginia area.
- (I) Metropolitan Baltimore and abutting counties.
- (J) New Jersey, downstate New York and Connecticut area.
- (K) Metropolitan Philadelphia and abutting counties area.
- (L) Metropolitan Chicago and abutting counties (Ill. and Ind.)
- (M) Metropolitan Boston and abutting counties area.

For purposes of this paragraph, the term "significant air pollution" means the presence of air pollutants from automobile emissions at such levels and for such durations as to cause a demonstrable and severe adverse impact upon public health."

(2) Section 202(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Regulations prescribed under this subsection shall not apply to motor vehicles or motor vehicle engines registered by owners who reside in geographic areas which are not designated by the Administrator under section 202(b) (6) as areas in which there is significant air pollution, for the period beginning on the date of enactment of this paragraph, and ending on January 1, 1977, or the day on which the President declares that shortage of petroleum is at an end, whichever occurs later."

(3) Section 203(a) (3) of such Act is amended to read as follows:

"(3) for any person to register, on or after 60 days after the date of enactment of this paragraph, a motor vehicle or motor vehicle engine for which the regulations prescribed under section 202(a) (1) do not apply under section 202(a) (3) if such person resides in a geographic area designated by the Administrator to be a geographic area in which there is significant air pollution; or"

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. Dingell) reserves a point of order against the amendment.

Mr. WYMAN. Mr. Chairman, make no mistake about it. The people back home are up in arms about this gas situation, and about the lack of need for automobile emissions controls in most of this country. They are angry. They are asking what kind of jackasses do we have in the Government that can impose on the people of the 95 percent of this country that has no auto emissions related air pollution, a 20-percent fuel penalty at a time of acute gasoline shortage? And for what? Those that keep on with this sort of thing will, and please mark my words, will and indeed should be retired next year.

This amendment is very simple. It takes emissions controls off cars in the white area on this map—cars registered to persons who are residents in the white areas on this map. Older cars may have theirs disconnected. New ones will not be required to have controls in these areas. [Sec. 203.]

The amendment does not take emissions controls off forever, but only until January 1, 1977, or until the President declares that we do not have an acute petroleum shortage any longer.

It also provides that the Administrator of EPA may designate certain areas in which there is an automobile emission related pollution problem. The Administrator must do this within 60 days. People who live in these areas must continue emission controls on their cars.

It is extremely important that it be understood by all that this amendment does not truly present an environmental issue. This is a matter of commonsense. This ought to be done in this country, whether or not there is an energy crisis. The saving in gasoline would exceed several hundred thousand gallons per day. It would run into hundreds of millions of gallons yearly. It is impossible for me to stand here and tell Members exactly how much, because somebody having a 1972 or 1973, or a 1971 car, will have the option to take off his emission controls. I cannot guarantee that everybody would do this, but I do know that people who take off these emission controls—and some have reported to me that they have done it—get more miles per gallon than they did with a car with emission controls on it.

We are talking here about approximately three-quarters of the cars in this country. There is no question that this will save a significant amount of gasoline and hence oil on a daily basis effective immediately. The present controls are estimated to waste between 17 and 20 percent of the fuel. If we take the number of gallons per day, which is in the millions being consumed in the United States, and we take that one-fifth off as a rough saving estimate, the rest is simple mathematics. It would be a significant help in meeting our current gasoline shortage.

The Office of Science and Technology in a study on this subject has made a very interesting observation with regard to those who might suggest that because a car is registered in the white area and operated in the pink area there might be a problem. The answer to that is that the in-and-out traffic between the white area and the pink area does not exceed 5 percent. It is approximately 2.3 percent in New York City, for example, and the transient traffic will not significantly adversely affect ambient air quality in the red areas.

There is no question, Mr. Chairman, of the value to the Nation of this proposal. We owe it to this country at this time, to its economy, toward ending the gasoline shortage or at least getting it down to manageable proportions, and to our constituents and to ourselves as responsible legislators, to adopt this amendment.

Mr. Chairman, I urge its adoption by this House.

The CHAIRMAN. Does the gentleman from Michigan withdraw his point of order?

POINT OF ORDER

Mr. DINGELL. No, Mr. Chairman.

I rise to make the point of order, Mr. Chairman, on two grounds. The first is that the amendment seeks to undo action already taken by the Committee, in that it is, in fact, an attempt to amend the Hastings amendment adopted yesterday. Whether in fact the language does so or whether it in fact does not, it is plain that the House has already spoken its will with regard to the Hastings amendment.

The language of the amendment offered by my friend in the well, the gentleman from New Hampshire (Mr. Wyman) now seeks to undo that and to put in toto the provisions of the action taken by the House in adopting the amendment offered by my friend and colleague, the gentleman from New York (Mr. Hastings).

The second ground on which I make a point of order is that at no point in the bill before us appears an amendment to **section 203** of the Clean Air Act. In fact, the gentleman's amendment deals with **section 203** and not with the sections which are before us.

As the Chair will observe from the reading of the Clean Air Act, **section 203** is the penalty section and relates to certifications. **Section 202(b)** mandates the EPA to establish emission limitations for automobiles, and it is to **section 202(b)** which the bill itself now does apply. The amendment goes much further than that, and it restricts the authority of automobile owners to register automobiles in States, and this matter is not spoken to otherwise or elsewhere in the legislation before us.

It is, therefore, my strong view, Mr. Chairman, that the amendment before us is not germane to the legislation in dealing with subjects not in the bill and not presently before the House.

Obviously the germaneness rules are here to protect Members from being surprised by amendments which relate to matters different than those before us. Obviously the amendment relates to sections of the Clean Air Act and to matters that are not before us. For that reason the point of order against the amendment should be sustained.

The CHAIRMAN. Does the gentleman from New Hampshire desire to be heard on the point of order?

Mr. WYMAN. Mr. Chairman, it would be a little difficult for me to believe the gentleman could be surprised by this amendment. This display has been in the Speaker's lobby for a matter of days.

But there could be no denying that this amendment prevents wastage of gasoline in this country.

As far as whether this relates to the proposal of the gentleman from New York that was adopted last night, what this amendment does is—it does not change the carbon monoxide or nitrous oxide emissions standards at all. It simply suspends by amendment the authority of the Administrator to impose this requirement for a definite period during the energy crisis.

This is so plainly in order that I submit the Chair should overrule the point of order.

The CHAIRMAN (Mr. Bolling). The Chair is ready to rule.

The gentleman from Michigan essentially makes two points of order: One, that the amendment is not in order because it seeks to affect an action already taken by the committee. The Chair overrules that point of order since in fact the amendment comes at a place subsequent to the action previously taken; in other words it is to the point immediately after the text inserted by the Hastings amendment. The Chair cannot rule on the consistency of those amendments.

The second aspect of the point of order is the question of nongermaneness in connection with the Clean Air Act. The Chair has simply looked at the Ramseyer on the bill before us and it is very clear that the Clean Air Act is comprehensively amended by the bill and by the

pending amendment in the nature of a substitute. Therefore, the Chair overrules the point of order of the gentleman from Michigan.

The Chair recognizes the gentleman from Florida (Mr. Rogers) for 5 minutes in opposition to the amendment.

Mr. ROGERS. Mr. Chairman, I want to strongly oppose this amendment, too. It is an amendment that would completely abolish all progress we have made in obtaining clean air in this country. We already have adopted the provision that would extend for 2 years the emissions controls for 1975, through 1976 and 1977. The proposal evidently would seek what we considered and refused in 1970—an attempt to start dividing up the country. It would be most discriminatory. It would establish a problem of the question of the supply to sections of the country. What would happen where the automobiles would be restricted just to the area which they can operate in? It would be a most impossible way to operate in this country.

But more importantly, the purpose of this bill is to save fuel. The Health and Environment Subcommittee just held hearings on emissions controls and heard the testimony from EPA experts. At its Ann Arbor laboratory, EPA had its technicians take off the emissions controls as proposed in this amendment. Let me tell the Members right here that on page 51 of our hearings it says that the EPA study found that when the emissions control device was disconnected the fuel economy got worse.

So this amendment would not only be discriminatory, it would not work. The way cars are made if we try to remove what has been put on them we will bring about a worse fuel economy, which is exactly the opposite of what this bill is supposed to do.

Mr. DINGELL. Mr. Chairman, I think the map which is before this body, which our good friend has submitted to us, clearly points out the evils of his amendment. Members who represent the red areas, will find their constituents will have additional burdens in costs. The action of the committee, even before the amendment offered by Mr. Hastings, shows the best of all possible worlds, the best mileage and the best air pollution control. The action of the committee presented to the House at this time was acceptable to industry and represented a device which would be fully acceptable to the conservationists and to EPA.

This amendment has none of those virtues and, indeed, requires substantial retrogression, both in terms of mileage and in terms of conservation values and improvement of the air.

Mr. ROGERS. Mr. Chairman, the gentleman is exactly right. We would get the opposite results from what we want.

Mr. LATTA. Did I understand the gentleman to say if we did take these gasoline consuming gadgets off cars at this time, motorists would not get better gas mileage?

Mr. ROGERS. That is correct, because the engines themselves would also have to be changed. This is the testimony by EPA engineers.

Mr. LATTA. I thank the gentleman for yielding further and respectfully disagree with him. The gentleman had better talk to some of the motorists in his district and he will find out differently real fast.

Mr. ROGERS. I understand that the gentleman thinks that, but I have told the House the testimony we have received from the engineers.

Mr. HASTINGS. Mr. Chairman, I strongly oppose this amendment. I do not think this body should suffer under any delusion. I know

everybody in the country is complaining about poor fuel economy in their automobiles.

I, myself, have a 1973 car and understand the complaints, but do not be mistaken that the passage of this amendment will correct all that.

Mr. Rogers last night used the word "emasculate" the Clean Air Act in relation to my amendment and I stated then that was not true. This amendment really emasculates the Clean Air Act.

I want to say, this will not allow the cars manufactured in 1972, 1973, or 1974, to have the emission devices removed. That is an engineering job that would have to be accomplished back at the factory. So it sounds very good, because we are dissatisfied with gas economy that this amendment will correct that situation, but it simply is not true. It will not work.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is an extremely complex measure that we are considering today, and I want especially to deal with certain aspects of the Clean Air Act. It clearly makes good commonsense in view of the current energy crisis to more carefully examine what we are doing in our attempt to obtain the goal of clean air.

The Clean Air Act was adopted to protect the health of the public from a variety of pollutants. When we wrote the Clean Air Act Amendments of 1970, the House had a moderate measure. After the conference where the Senate amendments were accepted, we were required to meet certain automobile emissions standards in stages.

In my opinion, Mr. Chairman, we went too far too fast. As a result of pollution control devices, many of the 1972 model automobiles were not drivable.

We have listened to General Motors, Ford, and Chrysler. We have listened to Judge Russell Train, Director of EPA. What we failed to do was to listen to the consumer.

During the committee hearings, the mayor of Stillwater, Okla., who is a car dealer and a filling station owner, and also vice president of the Ford Dealers Association testified. Too many times we base our opinions upon the testimony of so-called experts, but we fail to heed the words of the people who have to drive the cars and buy increased amounts of gasoline as a result of the contraptions we placed upon them to clean the air, and in some cases to make them safer.

I quote directly from the words of Mr. Thomas:

I served as a chairman of the subcommittee for the service managers of a large organization last year, and I listened to these men from all over the country; and one of the top problems that we had was drivability, and a part of that stems from the fact that there are certain adjustments on the carburetors and part of the timing of the automobile that are limited at this time because of emission problems that we have. . . .

I own several service stations. One of them is closed now because I cannot get gasoline for it; another has gasoline about two-thirds of the time. . . .

I have real concern about how I am going to furnish gasoline for the types of automobiles that you are talking about right now if you go to the '75 level at this particular time.

I am getting like one-third of the number of automobiles for December that I was afforded a year ago at this time.

They tell you that this is because the big car is not selling, but the truth is they cannot produce the small one in the quantities that is necessary to take care of our needs.

In response to a question about the new seatbelts, I thought it was interesting what he said:

Dr. Carter, I hate to tell you this, and perhaps you do not want to know this, but I think a few years from now if it continues the way it is, Congress will probably get credit for changing the anatomy of the woman, because of the left mammary gland is going to have a real hard time surviving.

Let me go a little further. I think really that this has lowered the safety standards in spite of what has been said, because so many people are disconnecting the unit, and now they no longer use the lap belt because they have this unfortunate kind of harness to try to get into.

One important thing about the 1975 standards which the automobile industry is required to reach now is that General Motors stated there would be a fuel saving over 1974—as a base year—of approximately 13 percent. Chrysler stated that there would be no saving. Ford stated that there would be a saving of possibly 2 or 3 percent.

If any company wanted to go to the standards, it certainly was General Motors, and I really feel that they would have preferred to keep the 1974 standards.

In this important area of concern, however, I continue to maintain that we should not attempt to go too far too fast, as we have done in the past. I believe that we should set reasonable standards and proceed in a determined fashion to support them.

On the basis of savings over the 1974 model, I will support the 1975 standards, which will necessitate the installation of catalytic converters. This bill extends the standards through the 1977 model.

I hope the House will closely examine this important issue and determine to proceed in a reasonable manner.

AUTO EMISSION STANDARDS (GRAMS PER MILE) AND PERCENT REDUCTION FROM BASE YEAR
HYDROCARBONS AND CARBON MONOXIDES

Years.....	Hydro- carbon	Percent reduction from base year	Carbon mon- oxide	Percent reduction from base year
Base year:				
1970-71.....	4.1		34.0	
1972-74.....	3.0	37	28.0	18
National interim: 1975.....	1.5	63	15.0	56
California interim: 1975.....	.9	78	9.0	74
Statutory: 1976.....	.4	90	3.4	90

NITROGEN OXIDES

Years	Nitrogen oxides	Percent reduction from base year
Base year 1971:		
No control.....	3.5	
1973-75.....	3.1	11
California interim: 1975.....	2.0	43
National interim: 1976.....	2.0	43
Statutory: 1977.....	.41	90

MR. RANDALL. Mr. Chairman, I am grateful for the most welcome opportunity to express myself for these few minutes. I have risen again and again seeking recognition only to see all time granted those

members of the Interstate and Foreign Commerce Committee to the exclusion of those of us not on the committee.

Mr. Chairman, I rise in support of the amendment of the gentleman from New Hampshire (Mr. Wyman). I support his amendment because of an experience of mine during the Thanksgiving holidays. There was a teacher of a vocational and industrial school who assembled a class of about 25 students in his school to demonstrate some slight modification of emission devices. Those before the class sat in a 1973 or 1974 car. He had one of those expensive Sun testers which cost several thousand dollars that test engine efficiency.

He stood there with a screwdriver and made just two minor adjustments. There were two readings on the Sun tester, one of which indicated the revolutions per minute and the other gage read in inches of mercury, showed the compression of the engine to which the tester was attached.

The teacher bent over the car to do an adjustment on what I later learned was the intake manifold. With his screwdriver he made about three turns. Then he pointed to the gage. The revolutions per minute went up from about 1,000 to about 1,500, and the inches of mercury rose from 7 to 10 or 12 inches.

Then the teacher reached over to the other side of the car with his screwdriver he had two or three turns on what I later learned to be the exhaust gas recirculating valve. We looked at the two gages. The r.p.m. gage had jumped to 2,000 and the inches of mercury doubled from the original 7 inches up to 14 or nearly 15 inches which indicated the state of engine compression which is another word for engine efficiency.

The teacher was so sincere about these modifications he said he was willing to stake his reputation that mileage would be increased 4 or 5 miles per gallon and the overall efficiency of the engine increased substantially.

The name of the teacher was Scotty—he happens to be a Scotchman. His name is Scotty McHenry and the demonstration was made in Harrisonville, Mo. He told me the entire adjustment could be made for about \$15.

He went on to cite the other advantages, then he said to me “Think of it—\$15 to keep people from going out to buy these foreign made cars and thus to protect our own American automobile industry.”

Later I received from Mr. McHenry a more detailed outline of the simple alterations or modifications he had demonstrated for my benefit. I read now the outline of his proposed modifications.

First. Remove exhaust gas recirculation valve and replace with a steel plate and gasket. This will increase fuel savings significantly. Oxides of nitrogen would increase due to greater engine efficiency which would cause higher combustion temperatures. A mandatory 60 m.p.h. speed limit would result in lower combustion temperatures and a reasonable compromise of fuel economy and emission control.

Second. Another change which would reduce carbon monoxide and unburned hydrocarbons would be accomplished by connecting the distributor vacuum spark advance directly to the intake manifold vacuum. This emission change would increase low speed fuel economy. With no increase in undesired exhaust emissions. Carburetors need not

be changed or modified if they are well designed and very well calibrated for economical use of fuel.

I was impressed by the demonstration of Mr. McHenry because—listen to this—he did not touch the throttle; he did not increase the volume of gasoline with the carburetor at all. I believe all of you would have been equally impressed to see what a drag these devices put on an engine, and to see how r.p.m. and engine compression jumps with two small modifications.

Mr. McHenry said to me:

Furthermore, you are not touching any of the other emission devices down at the tail end of the car. You are not doing anything about the exhaust system. But you could if you would just be willing to put up with a little bit more noise from the exhaust—get even better gas mileage.

Mr. LATTA. Mr. Chairman, I thank the gentleman for yielding.

I would like to associate myself with the gentleman's remarks. I think that this House has been led down the primrose path too often with some of these programs, and the people back home are right. If we have been reading our mail, we know that they believe in this amendment. They want it.

I do not think we will want to go back home and face our people if we oppose this amendment.

Mr. RANDALL. Mr. Chairman, we had better go South or somewhere other than home if we pass this bill today without the amendment under discussion. In other words for those Members who go home with a record of opposition to increasing mileage per gallon of gasoline are not going to enjoy the holidays.

Mr. MILFORD. Mr. Chairman, I thank the gentleman for yielding.

I heartily support this amendment.

Prior to coming to this Congress, I was a professional meteorologist. I have been actively involved in the professional study of air pollution problems, beginning in 1953 and ending in 1971. There is not a single Member of this House more concerned about air pollution problems than I. However, I think we must get our facts right.

To begin with, the gentleman from New Hampshire (Mr. Wyman) is absolutely correct when he states that 95 percent of the United States does not have an auto emission problem. Second, there have been statements made to the effect that the removal of pollution abatement equipment from automobiles would not increase gasoline mileage. Statements have also been made to the effect that major reengineering of the automobile engine would be necessary to remove pollution equipment.

Earlier this year, at my own expense, I traveled to Detroit and spent the day at the General Motors research labs. I observed, first hand, the various test cells conducting experiments on all types of engines and all types of pollution devices. All known automobile engines from both this Nation and all other nations were being tested there.

I can assure my colleagues that the removal of pollution abatement equipment will definitely increase engine efficiency of all automobiles by a minimum factor of 7 percent and a maximum factor of 19 percent.

Since the Wyman amendment would remove these devices, only in areas of the Nation that have no auto emission problems. I cannot possibly see why there would be objections to the amendment.

There is another fact that Members are not recognizing. We are facing a shortage of fuel of at least 25 percent. That means that all auto travel will be reduced by 25 percent. It also means that all auto emission pollution will be reduced by 25 percent. Therefore, even if we removed these devices from all cars in the Nation, we would not have an increase in pollution.

I urge my colleagues to support the Wyman amendment.

Mr. RANDALL. Mr. Chairman, before I conclude my remarks let me tell you the superintendent of schools, Mr. Burens, arrived on the scene of the demonstration. Superintendent Burens has always been known in the community in which he lives as a crusader for cleaner environment in this city of Harrisonville which is the county seat of Cass County, Mo.

After a while the superintendent said to me:

I've watched the demonstration of these modifications and I've become convinced these modifications will not make any substantial differences in air pollution.

Mr. MYERS. Mr. Chairman, something was said a moment ago about engineering tests made relative to taking emission controls off the 1974 vehicles and the 1975 vehicles and that would not reduce significantly the mileage per gallon.

I am not an engineer, I am not even a mechanic. However, we did have a test conducted in Indiana. We had the devices taken off a large Chrysler New Yorker, and the car was driven a hundred miles. The mileage increase with that device taken off amounted to 2 miles per gallon. We took the device off a small economy car, and the mileage per gallon without the device or the emission control increased $3\frac{1}{2}$ miles per gallon.

So here again, I do not know the credibility of the witnesses here, but certainly there can be a significant difference and a change in the mileage per gallon by just taking these controls off.

Mr. HENDERSON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I wholeheartedly support the amendment offered by the gentleman from New Hampshire.

You can argue with some logic that if we should completely abolish the requirement for emission control devices on automobiles already manufactured, we would quickly create unacceptable levels of pollution in our major population areas where smog and low air quality is already a serious problem.

But it certainly makes sense to discontinue temporarily the requirement for such devices in the less populous areas of our country where population is not a problem.

This action will save million of gallons of gas. I doubt if anyone currently has completely reliable evidence to prove exactly how much would be saved, but it is obvious to us all that substantial amounts would be saved. It would also be a great boon to the automobile industry which is in trouble from used car lots to new car production lines with larger, heavier cars now less attractive to a public faced with a gasoline shortage. It is these models which would save the most fuel by disconnecting these emission control devices.

This amendment is a reasonable approach and should be adopted.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to speak for 5 minutes, but I do rise in order to see if we may not get a time limitation.

This is a very emotional subject, and all the Members want to have their say on it.

I would suggest that we could get general leave for revision and extension for all Members, and they could get their remarks in the Record, and I would suggest we limit it to 15 minutes.

Mr. Chairman, I ask unanimous consent that all debate on this amendment to the amendment in the nature of a substitute be terminated within 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. McEWEN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, I will amend that to 20 minutes.

Mr. Chairman, I ask unanimous consent that all debate on this amendment to the amendment in the nature of a substitute terminate within 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. FLYNT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, I will amend that to 25 minutes.

Mr. Chairman, I ask unanimous consent that all debate on this amendment to the amendment in the nature of a substitute amendment terminate within 25 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. FLYNT. I object.

The CHAIRMAN. Objection is heard.

Mr. WYMAN. Mr. Chairman, there have been some very serious inaccuracies in the statements made here that need to be explained before the House can pass its judgment on this amendment, and it is going to take a little time to go into all of these areas.

Therefore, I feel the time the gentleman suggests is a little too short.

Mr. STAGGERS. Mr. Chairman, let me amend that as follows:

Mr. Chairman, I ask unanimous consent that all debate on this amendment to the amendment in the nature of a substitute terminate by 12:30. That would be 32 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. McEWEN. I object.

The CHAIRMAN. Objection is heard.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I will be glad to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, the gentleman says this is an emotional issue.

Mr. STAGGERS. Yes, sir.

Mr. GROSS. Well, it is an economic issue.

Mr. STAGGERS. It is that.

Mr. GROSS. Yes. And a commonsense issue.

Mr. STAGGERS. That is right.

Mr. GROSS. May I ask the gentleman this question: When the debate started did not the gentleman say he could not speak for the committee but that he would not try severely to limit debate on this bill or limit debate?

Mr. STAGGERS. No, sir.

Mr. GROSS. Well, I will have to go back to the Record, I guess, and find the gentleman's remarks if they are still in the Record.

Mr. STAGGERS. In essence when we were talking about it at the start of the consideration of this bill I said that all Members would have a fair opportunity to speak, and I would sure insist on that today. I think that they can express their views within the time limit I mentioned.

Mr. Chairman, I renew my unanimous-consent request and make it 35 minutes, because I think we ought to have a time limitation.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. SCHERLE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Then, Mr. Chairman, I would move that all debate on this amendment to the amendment in the nature of a substitute close in 40 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers) that all debate on the pending amendment to the amendment in the nature of a substitute close in 40 minutes.

The question was taken, and the Chairman announced that the ayes appeared to have it.

Mr. FLYNT. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the motion was agreed to.

Mr. MICHEL. Mr. Chairman, I rise in support of the amendment [Sec. 203] and I use as justification for it part of the text of a hearing in the Appropriations Subcommittee several weeks ago on the supplemental appropriation request of EPA for an additional \$10 million. At that time there was a discussion about automobile fuel consumption, and I made the same point on the floor of the House here right after that hearing, as follows:

Mr. MICHEL. Mr. Train, let me just very briefly take up where Mr. Andrews left off, on the example of the automobiles.

We have two automobiles, a 1972 and 1973. We drove them to Florida, same speed, same weight, and every time we stopped for gas the 1973 was the one that wanted to stop first and each time we filled up it took four gallons more than the 1972.

Are there any calculations, estimates that would show us in total how many more gallons of fuel we are using in 1973 models over 1972 models, all told throughout the country?

Mr. BROGAN. We have published a report just recently dated October 1973, based on the testing conducted at the Ann Arbor, Mich., laboratory, based on the testing on engine dynamometers of precontrol cars, all the way through model year 1973, showing the impact of the controls before and after, starting with the 1968 model year.

Based on these data, the overall average is about 7 to 8 percent.

Mr. MICHEL. You mean if we are talking about barrels or whatever standard of measurement, we are saying 7 to 8 percent more fuel is required for 1973 models than for comparable number of 1972's?

Mr. BROGAN. In particular the tests are conducted over a driving cycle which is representative of the commuter run of a morning to the heart of the city. We have

found from other tests conducted by contractors throughout the United States that this is fairly representative of the way people drive throughout most of the United States.

So on that basis, since it is intended to simulate that driving cycle, that is pretty much the case.

Mr. MICHEL. Mr. Chairman, here is an opportunity to make some substantial savings in gasoline consumption that of itself would do more than all the speed limits, Sunday closings and what have you. I urge the adoption of the amendment.

Mr. PRICE of Texas. Mr. Chairman, this amendment could have a tremendous impact on fuel savings in a large majority of the United States. According to the 1970 census, 72.2 percent of the population lives in areas where the population is less than 100,000 and 55.2 percent live in communities of less than 25,000. Areas of this size would probably be similar to those which lack significant air pollution.

A factor of primary concern in the current shortage is the phenomenal increase in the demand for gasoline. This legislation would decrease that demand. Since 1962, the demand for gasoline has increased over 54 percent, and the Office of Emergency Preparedness—OEP—has reported that the demand for gasoline in the first quarter of 1973 was 5.5 percent higher than during the same period only 1 year ago. Several factors have contributed to the increase demand for gasoline, but of these factors, the single most important one—according to a study prepared by the Congressional Research Service at the request of the Senate Interior and Insular Affairs Committee—appears to be the gasoline penalty imposed by antipollution devices. Figures indicate that the new emission control devices on cars decreases mileage by 7 percent or more. OEP estimates that these devices have increased annual gasoline consumption by more than 300,000 barrels a day.

These devices have a greater impact than the number of new cars on the road first indicates. New cars are driven further than older ones each year; for example, a 1-year-old car is driven on the average of 13,200 miles a year in comparison to a 6-year-old car which is driven 8,700 miles a year. The percentage of emission-controlled cars increases daily, and the Chase Manhattan Bank has estimated that one-half of the expected growth in gasoline demand will be the result of emission control devices on late model automobiles.

A recent report printed in the April 1973 issue of the Oil and Gas Journal cited the following results of a study:

One private set of fleet tests indicated the mileage loss of 1971 models over 1970 at 7%, 1972, at 6%, and the 1973 over 1972 at 8%. This represented a cumulated mileage loss of 19%; but two direct comparative tests of 1973 models against 1970 models showed a loss ranging from 11% to 17% depending on the number of miles the 1970 models had been driven prior to testing.

These data showed much greater mileage declines than governmental tests made for the Environmental Protection Agency which reported losses of only about 7%.

This issue of Oil and Gas Journal also included a chart, which I have included here, with regard to gas mileage which will be helpful in seeing how stricter controls have reduced gas mileage which in turn has resulted in increased cost for automobile operation. Soon, these controls will bring us to the level of 6.8 miles per gallon which EPA recently released as the gasoline mileage of the 1974 Oldsmobile Toronado. The people in my district, which is one of the larger districts in

terms of area, cannot feasibly live with cars which perform at such a gas-guzzling rate especially with rumors that gas will go up to a dollar a gallon.

A LOOK AT LATE MODEL AUTOS

	1970	1971	1972	1973
Horsepower	268	253	168	165
Compression ratio	9.5	8.6	8.5	8.4
Axle ratio	2.74	2.74	2.74	2.77
Weight (pounds)	4,362	4,403	4,505	4,653
Acceleration (seconds):				
0 to 60 mi/h	10.7	12.0	12.8	13.0
25 to 60 mi/h	7.8	8.5	9.6	9.5
Miles per gallon	14.1	13.1	12.4	11.6

1970-71 data are gross horsepower, 1972-73 are net horsepower. All data are based on fleet of autos representing range of models produced by GM, Ford, Chrysler and are not averages for all U.S. autos.

Source: The Oil and Gas Journal, Apr. 16, 1973, p. 56.

The initial cost of this pollution control device on automobiles is an unnecessary waste of money for those in rural areas. The cost of this device is estimated to add \$100 to \$200 to the sticker price of a car to meet the 1975 interim standards. In a time when the buying power of our citizens has already been eroded—by increasing taxes—and income is decreasing, why should we force the people in areas where pollution is not a problem to purchase such devices. They should have the option to buy them just as they would any other accessory.

I urge my colleagues, representing both urban and rural districts, to support this legislation which would contribute greatly to energy savings—a goal which we all support.

Mr. FLYNT. Mr. Chairman, I strongly support the amendment offered by the gentleman from New Hampshire (Mr. Wyman).

Mr. Chairman, I very seldom trespass on the time of this body. I have sat through these debate hearings continuously these 3 days, since the House took up consideration of this bill. This is the first time that I have spoken on the bill except to vote. This bill is supposed to be an energy conservation measure, and the amendment offered by the gentleman from New Hampshire if adopted will conserve more energy, save more energy fuel, and help alleviate the energy crisis more than all the rest of this bill put together.

There have been statements made in opposition to this amendment that the emission control devices do not increase the consumption of gasoline.

Mr. Chairman, every engineer, every mechanic, every automobile dealer, and almost every motor vehicle operator with whom I have talked estimates the added energy consumption caused by unnecessary emission control devices at anywhere from 7 to 30 percent.

One of my sons, who is an engineer and a pretty good mechanic, told me of an experiment he conducted with two almost identical standard automobiles—substantially the same size, weight, and specifications but of different year models. When the two cars stopped to fill both tanks, the newer car required 19 gallons and the older model of the same car required only 14½ gallons. The newer car with current emission control device standards consumed 24 percent more fuel under the same driving conditions.

Information furnished to me by the gentleman from New Hampshire indicates that over a 10-year period the adoption of his amend-

ment would save in excess of \$63 billion, an average of \$6.3 billion a year in gasoline consumption costs alone. After that 10-year period the saving is estimated to be \$3.8 billion a year. It is a matter of simple arithmetic to convert those figures to dollar volume and to gallonage and barrel volume.

Mr. Chairman, the extremes to which the Environmental Protection Agency has gone in this particular field of requiring the same emissions control standards for the desert wastelands as are required for the heavily populated metropolitan areas of this country are ridiculous in the extreme.

If this amendment is adopted, I would hope that it would be followed by another amendment to permit any metro area not specified to be included upon request of the Representative and two Senators who represent such area desiring to be included.

Mr. Chairman, I urge the adoption of the Wyman amendment **[Sec. 203]** as a common sense approach to combatting our fuel and energy shortages which in no way compromises our national commitment to preserve the public health and environment.

In 90 percent of this country, fifteen-sixteenths of the geographical United States, there is no significant air pollution related to automobile emissions. The complete removal of all auto air pollution devices will not cause an increase in present levels of pollution in that 90 percent of our country. Yet, at this time, the extreme emission requirements of the Clean Air Act impose on all residents of the United States the same standards, which standards are needed in only 10 percent of the country. The amendment offered by Mr. Wyman does not relax our commitment to environmental protection; rather it restores reasonableness to our environmental protection program.

The amendment offered by Mr. Wyman will result in a substantial saving of gasoline. A significant study of the fuel penalty due to emissions controls reported that—

First. A 1973 car uses 9.4 percent more gas than a 1970 car, after allowances for weight differences.

Second. The 1973 cars burn 17 percent more gas than uncontrolled pre-1968 cars, after allowance for weight differences.

Third. The 1975—now 1976—auto emissions standards are expected to produce a fuel penalty of 24 percent, as compared to pre-1968—no controls—cars.

Fourth. The 1976—now 1977—NOX standards are estimated to increase the fuel penalty to 42 percent, compared to pre-1968 cars.

With the implementation of the Wyman amendment we would immediately conserve 17 to 20 percent of the millions of gallons of gasoline our cars consume.

In September 1973, the Yale University Medical School issued a report on its study of automobile emissions. Among its findings were:

First. While certain particulates can be a threat to health in the general population, it is already known that the three controlled automobile emissions are not in this category.

Second. The costs of controlling automobile emissions to the degree required by the law as now written far outweigh any expected benefits.

The final report of the Committee on the Cumulative Regulatory Effects on the costs of automobile transportation made to the Office of

Science and Technology in 1972 showed that over a 10-year period the costs of emissions controls would exceed the benefits by \$60 billion.

The facts prove that present standards are wrong and wasteful. I urge adoption of the Wyman amendment as an effective and positive step by the House of Representatives to correct ineffective regulations that promote a wasteful national gasoline consumption policy.

I have today been informed that approximately 80 percent of the provisions contained in the bill reported by the Interstate and Foreign Commerce Committee are in existing law and where funds are required they are already funded by current appropriations. I have not personally verified this, but I trust the source of my information.

The Federal Energy Administration which will be created to administer this bill if enacted into law in its present form and substance will be an administrative nightmare, and the problems that we will face as a result of the administration of these provisions will be worse than those we have already encountered in the administration of the Economic Stabilization Act by the Cost of Living Council.

Mr. REES. Mr. Chairman, I am strongly opposed to this amendment. Air pollution is a killer.

I would like to know why the American automobile industry cannot make a pollution-free car. The Japanese have now qualified three cars to 1975 air pollution standards and they have efficient motors, whether it be a Wankel or whether it is a stratified charge motor, but Detroit cannot. They come here begging and claiming they cannot give us a clean motor, and the Japanese have three.

We are ripping apart the whole environmental fabric of this country so that Detroit can keep turning out more and more air pollution spewing big, big cars which give 9 miles to the gallon.

I wish to insert in the Record the consent decree of the big automobile companies with the Department of Justice when they more or less were found guilty of conspiring over a 16-year period to delay research and testing and development and installation of effective air pollution control and equipment on motor vehicles. This consent decree is dated September 11, 1969.

The decree is as follows:

CONSENT DECREE

The Department of Justice filed today a proposed antitrust consent decree prohibiting the four major auto manufacturers and the Automobile Manufacturers Association from conspiring to delay and obstruct the development and installation of pollution control devices for motor vehicles.

The decree also requires them to make available to any and all applicants royalty-free patent licenses on air pollution control devices and to make available technological information about these devices.

Attorney General John M. Mitchell said the decree, filed with the United States District Court in Los Angeles, would be submitted to the court for final approval in 30 days. Its provisions would become effective immediately thereafter.

The proposed decree, signed by General Motors Corporation, Ford Motor Company, Chrysler Corporation, American Motors Corporation, and the Association, would conclude a civil antitrust suit filed by the Department on January 10, 1969.

Mr. Mitchell said that the proposed decree "represents strong federal action to encourage widespread competitive research and marketing of more effective auto antipollution devices."

Mr. Mitchell said that a continuation of the suit—which may have taken years in court litigation—would have delayed Justice Department efforts to end the

alleged conspiracy and its efforts to encourage immediate action by the automobile companies.

The Attorney General said that the consent decree should spur aggressive competitive research and development efforts by each auto company and by other companies, and therefore should prove to be a substantial benefit to the health and welfare of all metropolitan area residents—especially those in the Los Angeles Basin which has the most serious smog problem in the nation.

The Attorney General also said that the judgment is in line with the massive antismog program announced two weeks ago by Dr. Lee A. DuBridge, President Nixon's science advisor, at a meeting of the President's Environmental Quality Council.

Dr. DuBridge said, "Nowhere is there a greater need for urgency than in the field of air pollution, which affects directly the health and comfort of our people. I think speedy resolution of this case will promote competitive research and development in the design and installation of smog control devices and represents an important step forward in the fight against pollution."

The Department of Health, Education, and Welfare, which administers the Clean Air Act, and representatives of the Air Resources Board of the State of California, have expressed satisfaction with terms of the proposed consent decree.

Assistant Attorney General Richard W. McLaren, head of the Department's Antitrust Division, said the judgment represented a successful conclusion to a suit filed only eight months ago. He pointed out that the Government had achieved all significant relief sought in the complaint and all that could have been obtained after a full trial. In addition, he said, the Government had obtained certain relief pertaining to auto safety.

Moreover, Mr. McLaren noted that the public benefits of the decree will be realized immediately, instead of after protracted and uncertain litigation.

Main provisions of the proposed judgment are:

The auto manufacturers and the Association are prohibited from restraining in any way the individual decisions of each auto company as to the date when it will install emission control devices, and from restricting publicity about research and development in this field.

They are prohibited from agreeing not to file individual statements with governmental agencies concerned with auto emission and safety standards, and from filing joint statements on such standards unless the governmental agency involved expressly authorizes them to do so.

They are required to withdraw from a 1955 cross-licensing agreement and to grant royalty-free licenses on auto emission control devices under patents subject to the 1955 agreement to all who may request them. The Association is also required to make available all technical reports exchanged by the four auto producers in the past two years under the 1955 agreement.

They are prohibited from agreeing to exchange their companies' confidential information relating to emission control devices or to exchange patent rights covering future inventions in this area.

They are ordered to discontinue their joint assessment of patents on auto emission control devices offered to any of them by outside parties as well as their practice of requiring outside parties to license all of them on equal terms.

The original suit, charging violation of the Sherman Act, said the defendants and others delayed the manufacture and installation of auto emission control devices by agreeing to suppress competition among themselves in the research and development of such devices.

To this end, the suit asserted, they agreed that all industry efforts in this field should be undertaken on a noncompetitive basis; that each would install such devices only simultaneously with the others; and that they would restrict publicity about research efforts in the auto air pollution field.

The complaint charged that on at least three separate occasions the defendants agreed to try to delay the installation of auto emission control devices.

The suit also charged the defendants with having agreed not to compete with each other in the purchase of patent rights covering such devices from outside parties. The suit asserted that the defendants and others had agreed in 1955 to share their patents in this field with each other on a royalty-free basis. In addition, the suit said, they agreed to appraise jointly any patent for an emission control device offered to any one of them by an outside party, and each agreed

not to accept a patent license from any outside party without insisting on equal treatment for the others.

Named as co-conspirators in the suit, but not as defendants, were Checker Motor Corporation, Diamond T. Motor Car Company, International Harvester Company, Studebaker Corporation, White Motor Corporation, Kaiser Jeep Corporation, and Mack Trucks, Inc.

Mr. REES. Mr. Chairman, this decree prohibits Detroit from doing what they had been doing since 1955 because they did not and would not recognize the need for air pollution control devices.

Mr. Chairman, I would also like to enter into the record at this point a press release dated October 10, 1969, by 46 Members of Congress demonstrating their resentment over what they felt the consent decree did not do. We wanted tougher action.

Mr. Chairman, I think it is a terrible thing that in the greatest industrial country in the world we have an industry that has done so little about air pollution, who cares so little about the health of our citizens.

The press release is as follows:

AUTO SMOG CONSPIRACY CASE: 46 CONGRESSMEN JOIN IN BIPARTISAN LEGAL ACTION TO OPOSE OUT-OF-COURT CONSENT DECREE SETTLEMENT, AND DEMAND OPEN TRIAL OF AUTO SMOG CONSPIRACY SUIT

WASHINGTON, D.C. October 10, 1969.—46 Members of Congress, representing more than 20,000,000 citizens across the country, have filed suit in U.S. District Court in Los Angeles in opposition to the federal government's proposed consent agreement, and are asking instead for a public trial of the civil antitrust conspiracy case now pending against the Big-4 automakers and the domestic Automobile Manufacturers Association.

The suit accuses the major carmakers, and their politically-powerful Washington lobby, of conspiring over a 16-year period to delay research, testing, development, and installation of effective air pollution control equipment on motor vehicles.

The legal petition to enter the historic auto-smog case, was initiated by a bipartisan group of Congressmen, including Representatives Daniel Button (R-N.Y.), Jerry Pettis (R-Calif.), Edward Roybal (D-Calif.), and William Ryan (D-L.N.Y.), who denounced the Justice Department's decision of September 11 to seek an out-of-court consent decree settlement as clearly contrary to the public interest.

"Because of the overriding national significance of this landmark clean air protection case, it is essential that this behind-the-scenes offer to settle, be summarily rejected by the Court, as not being in the best interest of the American consumer, and that we proceed without delay to an open trial of the vital issues involved," the Congressmen declared.

"From a nationwide public health standpoint, we know that deadly car exhaust fumes cause more than 50% of America's total air pollution, and medical evidence has associated these toxic substances with higher rates of serious illness and mortality from asthma, emphysema, lung cancer, chronic bronchitis and heart disease," the lawmakers asserted.

"In addition, federal authorities estimate that nationwide property damage caused by corrosive pollutants contaminating the atmosphere amounts to some \$13 billion a year.

"The offer to settle out-of-court, and avoid an open trial, threatens to forfeit the public's right-to-know and be fully informed of the true facts about this alleged conspiracy," they charged.

"It also severely weakens the deterrent effect of the anti-trust laws, which would flow from a full trial of the basic legal questions at issue.

"Moreover, by denying the injured parties the right to use the evidence compiled by the Federal Grand Jury during its intensive 18-month investigation, the consent agreement would also virtually eliminate any possibility of future health or economic damage recovery actions by local municipal or state governments, business firms, or private citizens (contrary to the successful experience with the recent precedent-setting antibiotic drug price-fixing case).

"For instance," the legislators pointed out, "Los Angeles County and the City of New York have already filed claims for substantial auto smog damages, and have petitioned the Court to allow them to intervene as parties to the case in order to protect the vital interests of their citizens in an open public trial on the merits—as well as to be able to utilize all available Federal Grand Jury evidence to establish the facts of the anti-trust conspiracy."

Officials in Chicago have also filed a similar taxpayers' suit asking \$3 billion in health and property damages, claimed to have been suffered by Chicago area residents over the past 16 years, due to air pollution resulting from the auto manufacturers' alleged smog equipment conspiracy.

"If the government's proposed consent decree settlement is approved, however, the New York, Chicago, and Los Angeles claims, along with all other such efforts, will undoubtedly be lost," the Congressmen said.

"For that reason, we feel it is important that public officials and individual citizens, alike, take this opportunity to indicate to the Federal District Court that an open trial is imperative, if the cause of justice and the public interest is to be served.

"We believe this case could well become a legal watershed toward our national goal of promoting effective consumer protection for all Americans," they concluded.

The list of signers of the Congressional anti-smog petition includes: Representatives Joseph Addabbo—NY, Glenn Anderson—Cal, Mario Biaggi—NY, Jonathan Bingham—NY, John Blatnik—Minn, John Brademas—Ind, George Brown—Cal, Phillip Burton—Cal, Daniel Button—NY, Shirley Chisholm—NY, William Clay—Mo, Jeffery Cohelan—Cal, John Conyers—Mich, James Corman—Cal, Don Edwards—Cal, Leonard Farbstein—NY, Jacob Gilbert—NY, William Green—Pa, Augustus Hawkins—Cal, Richard Hanna—Cal, Chet Holifield—Cal, Andrew Jacobs—Ind, Harold Johnson—Cal, Joseph Karth—Minn, Edward Koch—NY, Robert Leggett—Cal, John McFall—Cal, George Miller—Cal, William Moorhead—Pa, John Moss—Cal, Thomas O'Neill—Mass, Richard Ottinger—NY, Jerry Pettis—Cal, Bertram Podell—NY, Adam Powell—NY, Thomas Rees—Cal, Fred Rooney—Pa, Benjamin Rosenthal—NY, Edward Roybal—Cal, William Ryan—NY, James Scheuer—NY, B. F. Sisk—Cal, John Tunney—Cal, Lionel Van Deerlin—Cal, Jerome Waldie—Cal, and Charles Wilson—Cal.

Mr. KYROS. Mr. Chairman, I rise in opposition to the amendment [Sec. 203] only because I think it would destroy a very carefully drawn scheme to provide clean air for this country. Although this amendment superficially sounds like an attractive measure to conserve gasoline, in reality it would save nothing, because the ultimate plans to put clean air into effect would not be realized and stationary sources, such as factories and powerplants, would have to be curtailed or completely shut down to achieve the clean air standards which would be affected throughout the Nation by this measure. For these reasons alone, I believe this amendment would fail in conservation of fuel and cause further degradation of our environment.

Mr. O'BRIEN. Mr. Chairman, I support the Wyman amendment. I would like to comment that the impact of the gasoline shortage has been felt in my neighborhood, most recently with respect to our Community Action program. Just as recently as yesterday, the director of our Community Action program, Mrs. Doris Dalton called, her program is about to be curtailed for lack of gasoline. That program is an extremely well administered one. We operate 10 or 11 minibuses, taking care of Headstart, Meals on Wheels, Foster Grandparents, and other worthwhile projects.

Thanks to the understanding and help from the Hauck Oil Co. officials, I was able to obtain gasoline so that the program might continue. If that program were cut back 25 percent, it would have a serious impact on our community.

I would make one modification, however. I would restrict the effective period of the bill to 1975, instead of extending it to include 1976 as well, at this early date.

Mr. SATTERFIELD. Mr. Chairman, I rise to make a point which has not yet been mentioned during this debate. There is something more involved here than mileage in an automobile, that is the impact of what we have done and what we are going to do in this bill to the total fuel available.

The bill before us as presently perfected will require the installation of catalytic devices on automobiles, devices of dubious value in terms of durability, in terms of health and in terms of effectiveness. In order for these devices to operate effectively they must use gasoline without lead additives. It is a fact that we can get more gallons of gasoline with lead added from a barrel of crude oil than we can of gasoline without lead additives. Moreover, by permitting the use of leaded gasoline, by not requiring catalytic devices we would enable manufacturers of new automobiles to increase the compression ratios of their engines which because of increased efficiency would increase motor vehicle mileage per gallon. We would at the same time erase the penalty of decreasing the amount of gasoline per barrel which results from producing nonleaded motor vehicle fuel.

I think we should recognize that the automobile industry is set up now to produce vehicles designed to operate on 91 octane gasoline. To produce 91 octane, lead free gasoline and to bring up the pool which averages 88.5 octane to 91 octane will require the utilization of additional aromatics in each barrel.

The net result is not just less gasoline but it will result also in an additional 6 percent shortage in feed stock of petro-chemicals. So what we are talking about here is not just gasoline consumption in the automobile, but the effects of the bill we are considering on all the products that are produced from a barrel of crude oil.

It is extremely important to recall the shortages which have already occurred in the petrochemical industry and to be aware of the fact that if we proceed as we are in this bill, we are going to suffer shortages in gasoline and other byproducts of crude oil, especially in petrochemicals.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. Zion).

Mr. ZION. Mr. Chairman, most people speaking on this amendment find it all good or all bad. I think the truth is somewhere in between.

I have just been talking with the people from General Motors, who told me, yes, it is possible to easily disconnect some of these parts associated with the emission control devices.

But, that probably special kits and specially trained people will be required to completely dismantle them at a cost of somewhere in the neighborhood of \$35. That is on the bad side.

On the good side though, is an investigation which suggests that if the 1970-71 models were re-tuned according to the provisions of this amendment, we would save in the neighborhood of 2.7 billion gallons of gasoline per year. So, it is both good and bad. On balance, I think it is good, and I intend to support the amendment.

Mr. HEINZ. Mr. Chairman, I rise in opposition to the Wyman amendment.

While the amendment [Sec. 203] has the good intention of improving fuel economy of automobiles during the energy crisis, I oppose the amendment. I do so precisely because I do not believe that it will help this Nation's energy situation either this year or next. The simple reason is that Detroit will not, and physically cannot, produce one new vehicle without pollution control equipment until at least mid-1975, perhaps later. This is so because the engineering and tooling leadtimes necessary to make engine compression ratio and other changes to increase gas mileage cannot be accomplished overnight. Such modifications would require 14 to 20 months and could be accomplished only after considerable trouble and expense to those who must eventually pay the bill—the American consumer. And that cost would be much more expensive than might be expected since automobile manufacturers would be forced to turn out two completely different lines of cars—those to be sold in areas of significant auto-related air pollution and those to be sold in areas without significant pollution.

In the meantime, while we await these changes by the manufacturers, the 1975 automobiles and perhaps some 1976's would be turned out with the 1974 engines. Of course, this would mean that the worst gas-guzzling automobile engines, the same engine that gives us the worst performance—I refer to the 1974 engines—would be with us at least until 1976.

Such a turn of events, Mr. Chairman, would be ridiculous for it would mean that American drivers would be compelled to endure 2 more years of poor performance gasoline mileage from their automobiles. What would be even more ridiculous is that they would be doing so in the name of saving fuel—which is exactly opposite of what would result.

Mr. Chairman, in its consideration of this bill, the Committee and its Health and Environment Subcommittee, of which I am a proud member, took matters into consideration. We knew that better mileage and better performance are needed if we are to cope with this Nation's energy crisis. The committee and the subcommittee, therefore, retained the 1975 auto pollution standards for 1976, because the 1975 automobile air pollution equipment will include new catalytic converters, allowing the new cars to be returned for better gas mileage along with better performance. General Motors testifies that these 1975—and now their 1976 and 1977—cars, which will be on the market next September will get an average improvement of 13 percent in gas mileage over their 1973 models.

Therefore, Mr. Chairman, Mr. Wyman's amendment would not save us fuel. Nor would it allow improvement in vehicle performance. Rather, it would result in the same poor mileage, the same poor driveability and, I might add, the same dirty emissions for nearly 2 years.

If we accept the committee changes in the Clean Air Act, then starting in just 8 short months we will have new cars with better mileage, better performance, and cleaner exhaust.

The committee modifications are responsible and reasonable. They mean gasoline will go further during this energy crisis. They mean American automobiles will perform better. They mean cleaner air. I urge the Members of this House to vote "No" on this amendment.

Ms. ABZUG. Mr. Chairman, I rise in opposition to this amendment.

It would seriously weaken the Clean Air Act and the progress the Nation has made to date relative to air pollution.

The amendment itself is puzzling. It treats automobiles as regional commodities and presupposes that only in metropolitan areas is there an air pollution danger. Implicitly, it assumes that pollution within metropolitan areas remains in metropolitan areas having little or no effect upon the hinterlands. Such assumptions are patently false.

Furthermore, the amendment treats emissions from mobile sources as being distinct and unrelated to emissions from stationary sources. The fact is that many of the pollutants produced by both sources are the same and they produce air quality which is dangerous to the public health and the environment. Essentially, I am saying that the pollutants emanating from automobiles without emission control devices will combine with pollutants emanating from stationary sources to create hazardous health and environmental conditions.

The provisions of the amendment exempting from emission control requirements the automobiles of those who reside outside of major metropolitan areas will be difficult to enforce and assumes that those cars will not enter areas with significant air pollution.

If a person lives outside of a metropolitan area, but purchases his auto from a dealer within such area, is that car to be equipped with emission controls devices or not? And what if a person from a metropolitan area was to purchase a car from a dealer in the country?

If a city dweller owns a home in the country, might the country home be used as a means of escaping the emission control requirements?

Since most people live in or near metropolitan areas, it can safely be reasoned that their automobiles will find their way into those areas. It would be blatantly inequitable for such cars to traverse such areas, when autos registered within them would have to be equipped with pollution control devices.

I urge my colleagues to oppose this amendment.

Mr. Moss. Mr. Chairman, I would just like to raise two points. I wonder if the enumerated metropolitan areas would have the right to bar from those areas automobiles coming from the other portions of the country not properly equipped to meet the standards in those areas? I would ask the gentlewoman from New York if she would yield to the gentleman from New Hampshire in order that he might respond.

Mr. WYMAN. Mr. Chairman, the answer is "No." As I have stated, studies have shown that the itinerant in-and-out traffic would not adversely impact on the ambient air quality of these areas. In short, there just is not enough of it to endanger health or warrant exclusion of these vehicles from such areas.

Mr. RANDALL. Mr. Chairman, for those who would argue that the amendment of the gentleman from New Hampshire emasculates the Clean Air Act have only to look at the map which he has prepared. Ninety-five percent of the areas of the United States have no significant air pollution problems. All his amendment does is suspend the automation requirement for cars registered to those residents of the United States that presently have no pollution problems.

Mr. Chairman, I am most grateful to get just a few remarks in on this limited time. Honestly, it has been very frustrating for the last

3 days to get up again and again seeking recognition only to have a member of the Interstate and Foreign Commerce Committee recognized in every instance and have to step aside. It should be the privilege of every Member to participate in debate.

Mr. Chairman, I think it should be obvious that motor fuel can be conserved if we can modify some of the emission devices now on later model cars. What has not been either mentioned or emphasized is that while removal of these devices would save gas at ordinary speeds of 60 or 65 miles per hour, there would be even a greater saving at speeds of 50 or 55 miles per hour because modern motor cars were not designed to be driven efficiently at these reduced speeds. But the efficiency of modern cars will be increased if we modify or remove one or two emission devices.

Another item that I want to crowd in, in my limited time, is a quotation from the Yale Medical School out of a report it issued in September 1973 after its study of automobile emission devices—"While carbon particulates can be a threat to health in the general population, it is already known that the three"—and there are only three—"pollutants which are presently controlled automotive emission devices are not in this category that will be a threat to the health of the general population."

Maybe most of our Members did not attend Yale University, but even if not, we can believe a report on a long study from such a prestigious institution as Yale.

Mr. Chairman, the gentleman from New Hampshire has been good enough to point the way to a sensible approach in trying to conserve some motor fuels. All he does by his amendment is suspend auto emission requirements for cars registered to residents of those parts of the United States having no significant air pollution for the duration of the energy crisis. Then he proceeds to define those areas that have significant air pollution problems, and these are excluded from the terms of his amendment.

Note well that the gentleman from New Hampshire suggests no permanent abandonment of the worthwhile goals of the Clean Air Act. Rather, he simply says that it should be suspended until January 1, 1977, or the date on which the President declares the shortage of petroleum is at an end. What could be more sensible and more logical if we are really interested in conserving motor fuel?

The gentleman's amendment quite properly provides that it does not apply to those persons that reside in geographic areas now designated by the Administrator of the Environmental Protection Agency as having significant air pollution.

I would not attempt to challenge his estimate of the saving of oil as inaccurate, because I have confidence in the gentleman's reputation for truthfulness and veracity. Therefore I believe him when he told us awhile ago that if emission devices were modified or removed, there would be a saving of 300,000 barrels of oil per day. If my memory serves me correctly, there are 40 plus gallons per barrel. Think of the saving that can be accomplished.

Well, the worthwhile objective of this amendment is simply to conserve motor fuel. When the time comes there may be a record vote on this issue. I would hope that only those who represent the Amish area

in nearby Pennsylvania where there are very few motor cars would vote against the amendment. Those from other parts of the country who vote against this amendment would demonstrate that they may not have as strong and abiding interest in the conservation of gasoline as present conditions demand of the rest of us.

Mr. Chairman, I wish to reiterate for the Record: I oppose the amendment. I do not support the Wyman amendment. In fact, I strongly oppose it for the reasons I indicated earlier, and I urge my colleagues to defeat the amendment.

Mr. HASTINGS. Mr. Chairman, I am somewhat disturbed about what is taking place. I share the concern that the gentleman from New Hampshire does. Of course, every Member in this House does.

However, if we are going to do what we seem to be doing with this amendment by approving it, why do we not just get rid of the Clean Air Act and throw it out? Because that is what we are going to do if we do approve this amendment.

If we want to do that, I think that is what we ought to consider in a separate action.

Mr. ROUSSELOT. Mr. Chairman, I suggest that is an unfair statement. The gentleman from New Hampshire is not trying to get rid of the Clean Air Act. He supports it. All he is trying to do is modify the terms and arrange a national adjustment.

Mr. HASTINGS. Mr. Chairman, I appreciate the gentleman's comment.

I want to say that when we look at this amendment, it says that it suspends the standards until 1977 or until such time as the emergency is over, whichever is later.

The cars that are going to be on the road in 1977 are going to be those engineered in 1974 and they are going to have certification tests made in 1975, and if then the suspension will terminate in 1977, what kind of a device are they going to have on them, since then the suspension of the Clean Air Act will allow existing or future standards to be in effect?

Then we will be in great big trouble.

Sometimes I think we forget that this House wrote the Clean Air Act. It did not come down to the Congress by heavenly mandate; we wrote the Clean Air Act and set into motion everything that has been done in the automotive business today to meet the standards that this Congress gave authority to the Administrator of the EPA to promulgate.

Now, we would like to suggest that somebody else took this action, and that, in fact, we are going to try to correct that action taken by somebody else out there.

Well, we did it. We started everything into motion that is in motion today in regard to automobile emission and the limiting factors therein, and now in the middle of the stream we are going to make some switches.

We did that in suspending the standards of 1975, and last night my amendment kept it in effect for 2 years. That is a compromise approach.

Mr. Chairman, I strongly urge that the House defeat this amendment.

Mr. MIZELL. Mr. Chairman, I rise in support of this amendment, because I think it is obvious what we are trying to do here is to find a means for conserving energy in this country.

Statements in debate indicate that by suspending emissions control devices on automobiles where it has been proven that there is no adverse effect on the environment or health will significantly save large amounts of needed gasoline. In fact, the savings of gasoline will probably amount to more than all of the emergency standards that we have imposed up to this point.

So we are dealing with an emergency, and, therefore, this requires emergency action.

I compliment the gentleman for introducing this amendment, and urge all my colleagues to support it.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. Nelsen).

Mr. NELSEN. Mr. Chairman, I think my colleague, the gentleman from New York (Mr. Hastings) made a very, very important point.

Our committee and the subcommittee that I serve on as ranking Member on our side wrote the clean air bill, brought it to the floor, and it was passed in the House; then it went to conference.

I am frank to say that I am one of those on the committee who is a mechanic, and I was of the opinion early that we were making demands and asking for standards which were much too severe and that could not be met in the time we set out in the bill.

However, we are on the road now, and we are moving ahead with engineering devices that are now coming up in the automotive industry. The industry is moving in the direction that we hoped they would in implementing it.

There are some changes that are being made, and I am informed by the manufacturers that they are moving as we want them to move, and I believe we are going to find some of the things which we do not like corrected in the very near future.

Mr. Chairman, I oppose the amendment.

Mr. MYERS. Mr. Chairman, I rise in strong support of this amendment.

We must recognize we passed in this Congress a Clean Air Act because we were concerned about the environment. That goal has not changed. We are still concerned about the environmental conditions. But today we have another problem that we did not have then, namely, a shortage of petroleum products.

We have the opportunity in this amendment to correct part of the shortage problem by adopting this amendment. We can also live with the Clean Air Act standards where they are most needed. This amendment accommodates them because it provides that in the areas most severely affected we will continue to use auto emission controls. It will provide for research to be developed in the near future so that we can satisfy the auto problems of today and the other problems about getting increased mileage. Through the use of better equipment we can come back to present standards sometime in the future. Mechanics tell me that there are other things you can do on existing automobiles, such as setting back the temperature, adjusting the timing, changing the compression, and so forth, minor changes which can bring about great increases in mileage.

I see no reason why we should continue to penalize every driver in the country, because we do have a few local areas with air quality problems.

Mr. DINGELL. Mr. Chairman, I rise not to argue the merits of the amendment but to point out technical defects in the drafting of it.

I think my colleagues ought to understand, with all due respect for my good friend, the gentleman from New Hampshire, the author of that amendment, that he has either offered an amendment which is grossly mischievous or which is very poorly drafted.

The function of the amendment is to say that there will be no more requirement for the connecting up of air pollution abatement devices in any area outside of the red area on the map. Even in times of intense air pollution alerts and crises without prior action by the Congress the Administrator of the EPA cannot require those connections nor, in fact, may the local air pollution authorities nor, in fact, may the State air pollution authorities.

I think all of us ought to know, for example—and my good friend, the gentleman from Indiana (Mr. Myers), spoke about this—there have been air pollution alerts in his area, in Miami and Dallas, Birmingham, Ala., New Orleans, and various other cities.

Mr. McEWEN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Hampshire. [Sec. 203.]

If we adopt this amendment, Congress will not repeat the mistakes we have made in the recent past. This amendment will provide us with an opportunity to avoid what appears to be costly and damaging overreaction in the 1970 amendments to the Clean Air Act.

Now that we have been living with these auto emission controls for a number of years, there has been an opportunity to gather some data and evaluate the standards set down by the 1970 amendments. There are questions being raised about these very strict standards and whether they are necessary to meet the goal of the 1970 amendments which was to avoid a substantial threat to public health.

I am sure there have been many studies done in this area, but one has come to my attention recently which may shed some light on this question. It was published by Du Pont's petroleum laboratory in September 1973 and is entitled "Relationship Between Automotive Emissions and Ambient Air Quality Levels". This study is principally concerned with carbon monoxide, one of the five pollutants for which ambient air standards have been published. The study concludes that ambient air quality standards can be achieved in even the most polluted urban areas with vehicle emission rates averaging 29 grams per mile.

The Environmental Protection Agency is currently enforcing a standard of 39 grams per mile. The 1974 interim standards will require 15 grams per mile and if the 1975 statutory standards come into effect, they will reduce the figure to 3.4 grams per mile. I am not a scientist and do not pretend to be an expert in this incredibly complex area, nor do I deny the fact that Du Pont may well have a bias since they are one of the leading producers of the lead that is added to gasoline to increase the octane levels.

However, Mr. Chairman, the Du Pont Corp. has a multimillion-dollar research and development operation and a longstanding valuable corporate reputation to uphold. I do not believe this study is a fabrication, and if it is only half right; that is, if 15 grams per mile

would achieve the ambient air standards, the EPA is asking for a standard that is more than three times as strict as what is required. In these times of serious petroleum deficiencies, we cannot afford to overshoot the mark. It is important that we achieve a healthy environment in those areas where the air is unsafe, but there is not enough petroleum to achieve a higher standard than that.

This situation is unfortunately reminiscent of miscalculations that have been made by regulatory agencies in the past. A subcommittee of the House Appropriations Committee last summer heard some shocking examples of how easily a reasonable finding can get carried to a ridiculous extreme. The immensely powerful regulatory agencies, which exert control over almost every phase of our daily lives, have over reacted to scientific findings all too often. For example, the Appropriations Committee translated the dosage of various ingredients that caused cancer in laboratory animals into equivalent amounts in men and found that in order to get an amount of oil of calamus comparable to that which caused effects in rates, a person would have to drink 250 quarts of vermouth a day. A more familiar example is cyclamates. A 12-ounce bottle of soft drink may have contained from one-quarter to 1 gram of sodium cyclamate. An adult would have had to drink from 138 to 152 12-ounce bottles of soft drink a day to get an amount comparable to that causing effects in mice and rats.

I understand that the Committee on Public Works of the other body has commissioned a study by the National Academy of Sciences which will review the health effects of those air pollutants for which national ambient air quality standards have been published. I commend this action and urge all Members to take the only reasonable position possible in light of the obvious need for that study and others like it. That is, to roll back these standards to a reasonable level until we have more reliable information upon which to base the standards.

Mr. YOUNG of South Carolina. I appreciate the gentleman's statements on this. I live so far out in the country that the birds do not fly there, and I wonder why we have to have emission controls out there.

Mr. WYMAN. I thank the gentleman.

I realize that some have commented that this is an emotional subject. I will try to avoid being emotional, but I would like to straighten out a few misstatements that have been made in the course of debate.

I agree the language of the amendment may not be in the most perfect form but its intent is crystal clear. There would be no difficulty following its mandate. I do not agree with the statements just made by my colleague, the gentleman from Michigan (Mr. Dingell) that the Administrator would not know how or where to designate auto emissions caused air pollution areas that "significantly and severely" impact on public health.

It is clear that he can designate areas which are listed in the amendment. Areas abutting those areas have been included. But he must find they are significantly adversely impacted by air pollution from automobile emissions.

The point and thrust of this amendment is that there is no sense in burdening the entire United States, 95 percent of its geographical area, for the 5 percent of the United States which has emission related air pollution problems. There is no sense in imposing an enormous capital cost running at billions annually, and an enormous energy loss

to the Nation by requiring emissions controls for the entire Nation. You do not emasculate the Clean Air Act one whit by taking off the emission controls on cars in those parts of this country that have no significant air pollution from automobiles. This is 95 percent of the United States of America.

To suggest in some manner, as has been done by the gentleman from New York, that people cannot take the emission controls off their cars under my amendment is to disregard the plain language of the first provision of the amendment. The power of the Administrator to impose any requirement in America on emission controls until January 1977 on cars registered to persons who live in the white portions of this map is suspended. This is crystal clear.

Now, this will save fuel in significant amounts. You can argue weight, you can argue all manner of things, but there is no question about the fact that to take off these emission controls will save fuel. And anyone can prove this with his own car.

The automobile industry, has been severely maligned here today. The automobile industry in America is doing everything it can to try to produce clean cars, trying to develop either a stratified charge or any other form of internal combustion that will reduce what comes out of that exhaust pipe in the interest of public health.

I fully expect that the automobile industry in this country will come up with an efficient smaller engine, which will meet pollution standards, and will meet them soon. As a matter of fact many of the cars in this country made prior to 1968 meet the present air emissions requirements. Their combustion systems were a different breed of cat.

Mr. WHITTEN. Mr. Chairman, I thank the gentleman for yielding, and may I say, Mr. Chairman, that our committee which has had hearings on the EPA for the last 3 or 4 years, developed the fact that in 40 instances Congress has set specific dates for certain actions without regard to whether such deadline could be met. Evidence in many cases indicate that such deadlines could not be met without new discoveries or inventions. The Congress this year approved \$5 million to get the National Academy of Sciences to make a study of the Actions of the Environmental Protection Agency and to report to us the facts. The matter of Automobile emissions, including gasoline consumption rank high on the list of needed studies. Apparently the facts do not justify the additions on automobiles.

Mr. WYMAN. I thank the gentleman from Mississippi for his comments.

Mr. Chairman, let me briefly point out to the environmental enthusiasts of which I am one, that there is no health problem caused, required, or proposed by this amendment.

The Clean Air Act deals with other emission sources, stationary and other. The Environmental Protection Agency has depicted such areas in this country and I hold a map now before the House that shows the extent of this. It is much broader than the areas with auto emissions problems. We did not reproduce it with an overlay because we did not have time. It shows that the parts of this country that have pollution problems do not relate to automobiles, and there are many of them, and they will be covered and protected by the Clean Air Act.

But in all commonsense let us not, because of the stubbornness of one man in the other body, continue that which has been wastefully and

excessively imposed on this Nation at a cost running into billions of dollars every year. These excessive standards also require a tremendous loss of energy, which is utterly unacceptable in this time of energy crisis.

As I said earlier, people in this country do not understand this, and they think that we must be some kind of fools if we do not correct this. I urge the adoption of this amendment.

Mr. ARENDS. Mr. Chairman, I thank the gentleman from New Hampshire for yielding to me, and I wish to compliment him on the fine presentation he has made. I agree with the position the gentleman takes and I will support his amendment, and I trust that a majority of the House will do likewise.

Mr. ROGERS. Mr. Chairman, I strongly oppose this amendment, and I too, as the gentleman from Minnesota (Mr. Nelsen) does, and as the gentleman from New York (Mr. Hastings) does, and as other members of the committee who have studied this matter over the years do, feel that this would be a disastrous step to take for the Nation. As the Members know, the health needs of this Nation brought about the Clean Air Act. About 40 to 60 percent of the air pollution problems of this Nation come from automobiles.

Now, one can say this amendment does not have any effect on health but if you look at the facts, it does.

I want to state, Mr. Chairman, that I certainly oppose the amendment for many reasons, one of which is we will have improved gasoline mileage in 1975 by the use of the catalytic converter.

Second, engine efficiency can be improved with the catalytic converter, and I think that we are on our course and we must maintain it. We cannot stop.

Mr. PREYER. Mr. Chairman, I rise in opposition to the Wyman amendment. **[Sec. 203.]**

Mr. Chairman, this seems to be open season on the Clean Air Act. The man in the street seems to believe that the Clean Air Act is the sole reason that his new car burns more gas than his old car, and he is encouraged in this by some of the automobile companies and dealers. Some people even claim that the Clean Air Act has brought on the energy crisis.

This is nonsense. There are a number of reasons why this year's car burns more gas than last year's model, and the antipollution devices required by the Clean Air Act is one of the least offenders. The principal causes of the fuel penalty on today's cars are: one, increased weight—this year's models average 500 pounds heavier than last year's, and weight is the greatest fuel consumer in cars. Second, air conditioners—which may impose a fuel penalty as large as 20 percent in urban stop-and-go driving. Third, automatic transmissions. Fourth, power brakes, power steering, power windows. Antipollution devices make a relatively modest contribution to the increased use of gas by automobiles. Yet the only suggestion we hear to improve gas mileage on our cars is to remove the antipollution devices from cars. Why not remove the air conditioners; or the automatic transmission; or the power appliances; or reduce the weight of the car? None of these methods of increasing mileage pollute the air, unlike removing the pollution control devices. Why do we put all the burden on dirtying the air as

the answer for getting better gas mileage, rather than giving up a few of our luxuries?

The Clean Air Act is a creature of this body. We passed it, and we should be proud of that fact.

Last year, for the first time in the history of this country, the air was cleaner than it was the year before. That is progress. Our water still gets more polluted each year; our solid waste problem gets worse. But the air is getting cleaner. And this can be largely attributed to the Clean Air Act. It would be tragic to take a backward step, now that we have turned it around and for the first time our air is getting cleaner, day by day. We must maintain the momentum of the Clean Air Act.

Of course, we must be practical, too.

And extending the 1975 interim auto emission standards for 1 year, or every 2, recognizes the practicalities of the situation, and is the best we can do under the circumstances.

But there is no reason of practicality, or any other reason, to excuse adopting the Wyman amendment. It would do serious damage to the Clean Air Act, and our program to clean up the air under that act. In fact, it would be disastrous. It would totally destroy the momentum we have achieved under the Clean Air Act. The effect of it will be more cars dirtying the air as a solution to saving gas. This is the wrong way to save gas.

Here are some of the specific reasons the Wyman bill is bad:

For one thing, it will be impossible, as a practical matter, to prevent residents of the 13 covered areas from going outside their "forbidden area" to purchase cars in an area that is free of Clean Air Act controls. Since the costs of such cars will be about \$200 less than those cars for sale in his "forbidden" residence, there will be a great temptation to fraud. Even if some sort of sticker system is developed to distinguish cars from certain areas, it is hard to see how there can be any effective enforcement. It would be very discriminatory against car dealers in those 13 areas under the Clean Air Act and a windfall to those who aren't.

More important is what the Wyman amendment will do to the Clean Air Act works. The Clean Air Act sets primary air quality standards that must be met. These standards can be met in a number of different ways: By restricting emission from stationary sources; by restricting auto emissions; or by transportation controls—which involve parking restrictions, and the "rationing" of autos by limiting the number of vehicle miles traveled in a particular area.

There are 36 areas in the country that EPA says will require the use of transportation controls, in addition to restricting emissions from autos and stationary sources, in order to meet the ambient air standards in those areas. Since the Wyman amendment only covers 13 of these areas, at least 23 areas will be required to take far more drastic measures by the use of transportation controls—by forbidding more autos in an area—in order to meet the ambient air quality standards, since they are forbidden to restrict auto emissions as the major way to satisfy the standards. The effect might well be to shut down the economies of some areas of the country.

There is another practical problem with the Wyman amendment. The 1975 auto emission standards already adopted in this bill require

the use of unleaded gasoline. If the Wyman amendment is adopted, unleaded gasoline will not be required outside of his 13 designated areas which means none will be for sale there. But the cars in these 13 designated areas will require catalytic converters which will be ruined if gasoline with lead is used in them. As a result, a car from one of the 13 areas will not be able to get unleaded gas outside the area, and will not be able to drive there without destroying the anti-pollution system of the car.

There are some other practical considerations. Taking off existing pollution devices from cars may result in a mileage loss, according to some recent evidence. Removing them will certainly be costly—at least \$35, and Ford Motor Co. has estimated a cost of \$250 to \$400 to eliminate the devices.

If we support the Clean Air Act, as modified in this bill and without the Wyman amendment, we know that gas mileage will improve on next year's cars—by as much as 15 percent; and even more important, we know our air will be getting cleaner.

Mr. STAGGERS. Mr. Chairman, I oppose the amendment.

Mr. ROBISON of New York. Mr. Chairman, the amendment offered by the gentleman from New Hampshire (Mr. Wyman) apparently offers an appealing alternative to gasoline rationing, of some sort. It has a certain surface plausibility, too, and projects—or seems to project—the basic, good, commonsense its author has come to be known for in that, one has to ask, what need does a motor car in, say a rural area of North Dakota, or Kansas, or for that matter in the Adirondack portion of New York have for an air-pollution control device? Spread out as motor cars and people are in such areas, where such air pollution as may exist is no health hazard, why exact the 10 percent or more fuel penalty today's emission-control devices require of those motorists? Why not let them, if they wish, remove such devices from their cars and spread the resulting gas savings around the Nation so that, maybe, with other conservation measures being taken everywhere, we can avoid the headache of gasoline rationing?

The answers to such questions do not come easily for—as I have said—this does seem like an attractive, and immediate if partial, solution to our problem.

In my judgment, however, it is a solution we should reject.

Why?

Well, let me begin by saying I have no difficulty with the other provisions, already in this complex bill, which would at least temporarily suspend certain "clean air" limits as previously set or contemplated for stationary air pollution sources, encourage the reconversion to coal of certain power plants, defer for 1 year the planned further reduction in automobile emissions of hydrocarbons and carbon monoxide, and the like. Given our present dilemma in trying to manage a shortfall estimated at 17.3 percent between petroleum supply and demand, these actions are, at a minimum, along with greater conservation measures, both reasonable and necessary.

But, is it also reasonable and necessary to now turn back the clock, so to speak, on the progress we have made—however painfully—in reducing the contribution made by America's 110 million motor cars to "dirty" air, nationwide? Is it reasonable and necessary to make a determination—as the amendment in effect does—that there is no such

thing as "ambient" air, or air that moves around, whose quality can be affected by its use or abuse virtually anywhere along its natural course?

Mr. Chairman, in responding "no" to these, and similar questions, I know full well that I will be disappointing many of my constituents—including some of the best friends I have back home who have always looked with a jaundiced eye at the effects of the Clean Air Act on their automobiles, and who argue that, in a political overreaction to the pleas of the environmentalists, Congress has tried to move too far, too fast, in reducing motor vehicle emissions. In so arguing, they ignore—although I am sure it is an unintentional oversight—the fact that vehicle weight is the single, largest factor involved in excess fuel consumption, along with such latter-day refinements as I plead guilty to having in the car I drive as air conditioning, power brakes and power steering.

Do we remove, then, our automobile air conditioners—or the pollution control devices?

Which choice, in the long run, would be the wisest?

Mr. Chairman, I got along without an air-conditioned car for a good many years. If need be, I can do so again—and, when I can afford it, I can and will trade down to a smaller car. But none of this means, by any token, that the auto-industry is "done"—an industry that provides jobs for one out of every six able-bodied Americans, who work in auto plants or repair cars, or fill gas tanks, or advertise, or sell autos. The auto industry will survive. Its capacity to adjust will be demonstrated, for its technological capacity is by no means frozen—as witness General Motors' progress toward its catalytic converter which should meet emission standards while improving gas mileage. If the industry needs more time to make such adjustments, I acted to help give them such time by supporting the 2-year extension amendment yesterday the gentleman from New York (Mr. Hastings); offered relative to more stringent emission standards.

I might help, here, to recall the history of America's first "energy crisis," in the 1860's, when a scarcity of whales whose oil was the major source of artificial light produced, for a time, near panic conditions. But we turned, then, not to breeding farms for whales but to the ongoing process of discovery and technological innovation, with the result being the coming of the petroleum age and, eventually, of electricity.

In the same way, I think, we have to now reexamine our dependence on motor cars as we have known them. There may be no traffic congestion in Idaho, or Wyoming, but there are almost 4 million cars in the Los Angeles area, burning some 8 million gallons of gasoline daily—more than in all France—and discharging more than 12,000 tons of hydrocarbons, nitric acid, and carbon monoxide, enough to form a constant, choking smog unless the wind blows it in the direction of Idaho or Wyoming. The pending amendment seeks to address itself to those uncongested areas but, Mr. Chairman, this is one nation—indeed, this is but one world—and, unless we learn to strike a balance between our energy concerns and our environmental concerns, it will not be a very happy world for our children to inhabit.

Let us understand that those two concerns are on converging tracks—and not on a collision course.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment offered by my distinguished colleague from New Hampshire because it is administratively unworkable.

The first amendment, to reduce the ultimate required automobile emissions controls levels from their present 96 percent to 90 percent, would present the Environmental Protection Agency with a regulation—writer's nightmare. The amendment provides that auto emission controls levels will be 90 percent over a 1970 auto that had no controls. The problem is that 1970 cars did have controls, and so this amendment would be establishing a standard based upon a hypothetical engine supposedly found in 1970.

This amendment would undoubtedly lead to protracted court litigation between the EPA and the major auto makers about what standards should be set for the hypothetical 1970 engine.

That is the first problem.

The second problem is found in the second amendment offered by the gentleman from New Hampshire.

This amendment would suspend auto emission requirements for those parts of the Nation that lack significant pollution levels. Thirteen such areas are designated. However, the EPA designates 38 areas of significant air pollution.

Furthermore, there is the administrative problem of how to segregate uncontrolled cars from the air pollution districts. Would that mean that people from my district in the Berkshires could no longer drive to the Boston area?

I do not really believe that some kind of sticker system would cure the problem.

Furthermore, the effect of this amendment, according to EPA, might be to make some emissions standards tougher than the present law provides. Before this amendment is rushed through, it should get thorough study first in the appropriate committee.

Because of the administrative problems found in this amendment, I ask my colleagues to vote against it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire, Mr. Wyman, to the amendment in the nature of a substitute offered by the gentleman from West Virginia, Mr. Staggers.

The question was taken; and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

Mr. WYMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, yeas 210, answered "present" 1, not voting 41, as follows:

[Roll No. 668]

AYES—180

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends

Armstrong
Ashbrook
Baker
Bauman
Beard
Bergland

Revill
Blackburn
Bowen
Bray
Breaux
Brinkley

Brooks	Hébert	Pickle
Broomfield	Henderson	Poage
Broyhill, N.C.	Hicks	Powell, Ohio
Broyhill, Va.	Hogan	Price, Tex.
Burgener	Holt	Quillen
Burleson, Tex.	Hosmer	Railsback
Butler	Huber	Randall
Byron	Hudnut	Rarick
Camp	Hungate	Roberts
Casey, Tex.	Hutchinson	Robinson, Va.
Cederberg	Johnson, Colo.	Rose
Chamberlain	Johnson, Pa.	Rostenkowski
Chappell	Jones, Ala.	Rousselot
Clancy	Jones, N.C.	Ruppe
Cleveland	Jones, Tenn.	Ruth
Cochran	Jordan	Ryan
Collier	Kazen	Sarasin
Collins, Tex.	Ketchum	Satterfield
Conable	King	Scherle
Cotter	Kuykendall	Schneebeli
Crane	Landgrebe	Sebelius
Daniel, Dan	Landrum	Shipley
Daniel, Robert W., Jr.	Latta	Shriver
Davis, S.C.	Lehman	Shuster
Davis, Wis.	Litton	Sikes
de la Garza	Lott	Skubitz
Denholm	McClory	Slack
Dennis	McCollister	Snyder
Devine	McCormack	Spence
Dickinson	McEwen	Steed
Dorn	McKay	Steiger, Ariz.
Downing	McSpadden	Stratton
Duncan	Macdonald	Stubblefield
Edwards, Ala.	Madigan	Stuckey
Esch	Mahon	Symms
Eshleman	Mann	Talcott
Evins, Tenn.	Martin, Nebr.	Thornton
Findley	Mathis, Ga.	Towell, Nev.
Fisher	Michel	Treen
Flynt	Milford	Ullman
Fountain	Miller	Vander Jagt
Frelinghuysen	Minshall, Ohio	Waggonner
Froehlich	Mitchell, N.Y.	Wampler
Gaiamo	Mizell	White
Ginn	Mollohan	Whitehurst
Gonzalez	Montgomery	Whitten
Goodling	Moorhead, Calif.	Widnall
Gross	Myers	Wilson, Charles, Tex.
Guyer	Nichols	Wylie
Haley	O'Brien	Wyman
Hammerschmidt	O'Hara	Young, Alaska
Hanrahan	Owens	Young, S.C.
Harsha	Passman	Young, Tex.
Harvey	Patman	Zion

NOES—210

Abzug	Bafalis	Brasco
Adams	Barrett	Breckinridge
Addabbo	Bennett	Brotzman
Anderson, Calif.	Biaggi	Brown, Calif.
Anderson, Ill.	Biester	Brown, Mich.
Annunzio	Bingham	Brown, Ohio
Ashley	Blatnik	Buchanan
Aspin	Boggs	Burke, Fla.
Badillo	Boland	Burke, Mass.

Burlison, Mo.	Heckler, Mass.	Preyer
Burton	Heinz	Price, Ill.
Carey, N.Y.	Helstoski	Pritchard
Carney, Ohio	Hillis	Quie
Carter	Hinshaw	Rangel
Chisholm	Holifield	Rees
Clausen, Don H.	Holtzman	Regula
Cohen	Horton	Reuss
Collins, Ill.	Howard	Rhodes
Conlan	Jarman	Rinaldo
Conte	Jones, Okla.	Robison, N.Y.
Conyers	Karth	Rodino
Corman	Kastenmeier	Roe
Coughlin	Kemp	Rogers
Cronin	Kluczynski	Roncalio, Wyo.
Culver	Koch	Rooney, Pa.
Daniels, Dominick V.	Kyros	Rosenthal
Danielson	Leggett	Roush
Davis, Ga.	Lent	Roy
Delaney	Long, La.	Roybal
Dellenback	Long, Md.	St Germain
Dellums	Lujan	Sarbanes
Derwinski	McCloskey	Schroeder
Dingell	McDade	Seiberling
Donohue	McFall	Shoup
Drinan	McKinney	Sisk
du Pont	Madden	Smith, Iowa
Eckhardt	Mailliard	Smith, N.Y.
Eilberg	Mallary	Staggers
Evans, Colo.	Maraziti	Stanton, J. William
Fascell	Martin, N.C.	Stanton, James V.
Fish	Mathias, Calif.	Steelman
Flood	Matsunaga	Steiger, Wis.
Flowers	Mayne	Studds
Foley	Mazzoli	Symington
Ford, William D.	Meeds	Taylor, N.C.
Forsythe	Mezvinsky	Teague, Calif.
Fraser	Mills, Ark.	Thompson, N.J.
Frenzel	Minish	Thomson, Wis.
Frey	Mink	Thone
Fulton	Mitchell, Md.	Tiernan
Fuqua	Moakley	Van Deerlin
Gaydos	Moorhead, Pa.	Vanik
Gibbons	Morgan	Veysey
Gilman	Mosher	Vigorito
Goldwater	Moss	Waldie
Grasso	Murphy, Ill.	Whalen
Gray	Murphy, N.Y.	Wiggins
Green, Oreg.	Natcher	Wilson, Bob
Green, Pa.	Nedzi	Wilson, Charles H., Calif.
Griffiths	Nelsen	Winn
Grover	Nix	Wolff
Gude	Obey	Wright
Gunter	O'Neill	Wylder
Hamilton	Patten	Yates
Hanley	Pepper	Yatron
Hansen, Idaho	Perkins	Young, Fla.
Harrington	Pettis	Young, Ga.
Hastings	Peyser	Young, Ill.
Hawkins	Pike	Zablocki
Hechler, W. Va.	Podell	Zwach

ANSWERED "PRESENT"—1

Parris

NOT VOTING—41

Bell	Hanna	Sandman
Bolling	Hansen, Wash.	Stark
Brademas	Hays	Steele
Burke, Calif.	Hunt	Stephens
Clark	Ichord	Stokes
Clawson, Del	Johnson, Calif.	Sullivan
Clay	Keating	Taylor, Mo.
Dent	Melcher	Teague, Tex.
Diggs	Metcalf	Udall
Dulski	Reid	Walsh
Edwards, Calif.	Riegle	Ware
Erlenborn	Roncallo, N.Y.	Williams
Gettys	Rooney, N.Y.	Wyatt
Gubser	Runnels	

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 103] offered by Mr. Eckhardt to the amendment in the nature of a substitute offered by Mr. Staggers: On page 7, line 21, add the following language:

"(1) Nothing in this subsection shall prohibit allocation of refined petroleum products for student transportation within an area in which students are required or directed to be transported as the result of lawful action by the appropriate school board or school authority."

(Mr. Eckhardt asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. Dingell) reserves a point of order on the amendment.

Mr. ECKHARDT. Mr. Chairman, all this amendment [Sec. 103] does is provide that the lawful action by an appropriate school board or school authority shall be respected by the Administrator. For example, if the school board is, for instance, authorizing voluntary movement of students across school attendance lines, it can still get gasoline for the purposes of operating its school buses in connection with this purpose.

Now, in my district there is a school district called the Goose Creek School District. In that district there is a school called the Harlem School.

Five years ago, the Harlem School which is in a black community, was 100 percent black. Today, because the Goose Creek School District is permitted voluntary majority-to-minority transfer, white children from all over the Goose Creek School District have gone past other schools to attend the Harlem School, and this has thus reduced the school's black population, to about 70 percent only because of this

movement which is accomplished largely by transporting students in school buses.

Is it permitted that the Harlem School continue as a neighborhood school? If we do not provide that kind of activity upon the part of a school district will we not deprive the school district of gasoline? We would force the school district to abandon such programs.

The result would be that Harlem and a nearby school, Highlands, which has a predominantly white attendance, would have to be paired or some similar scheme devised. The result is that the white children from the Highlands district would have to be bused to the Harlem School, and vice versa.

Now, what the amendment says is simply this: that the Administrator should give the same priorities for gasoline to a school district which is doing that which it is lawfully ordered to do as to any district.

Now, I know that if I go back to Goose Creek, if I go back to my district and I tell them, "Look, folks, I have done you a big favor," they will then say, "What is your favor?" I will say, "What I have done is this: You are under the authority of the Federal district court, and you are under the authority of a Federal agency, the HEW, and now I have placed you under the authority of the Federal Energy Administrator, and you have got to please all three."

They are going to tell me, "Well, that is not a very great favor."

My amendment merely avoids placing the school district under that additional Federal authority.

It says that school district can put into effect its lawful provisions for assigning school children without that action being condemned under this bill.

Without this, since the Dingell amendment would require that students not be transported past the nearest school in the attendance district if the school district is to get its share of gasoline, I would be in a very, very difficult position to explain to my people at home why they cannot do what they have always done to maintain their neighborhood schools, because we have passed something up here that makes them subject to an energy czar.

The gentleman will recall that my city of Austin, Texas, was one of the first major cities in the Nation to come under a court-ordered busing plan, and they are busing now some 9,000 students within the city by virtue of the court decision. They closed down one of the schools in the east part of the city because of the busing order, and they have had to bus them now to Johnson and one other school, Austin High.

Now, if we leave the amendment as it was yesterday—and I supported that amendment—it would seem to me that schools which are forced by court order to bus are going to have to bus anyway under the court order, and we might wish to say, "Well, the court now will change its policy."

However, we do not have any assurance of that. We have no assurance the courts will not require any more busing.

Does the gentleman's amendment take care of that situation?

Mr. PICKLE. Mr. Chairman, will the gentleman's amendment take care of the situation in my city where we are under a court busing order, and we are making it work as best we can now, so that the school district, if forced to bus, would at least have the same allocation priority as other institutions?

Mr. ECKHARDT. That is correct; if it is all in the same school district. I do not think it would do anything in a case where students are sought to be transported across school district lines, but it would let the school district control operations within that school district.

Mr. PICKLE. It seems like it might be a fair approach and a reasonable solution to this vexing problem—if the school is being forced to bus by court order.

Mr. ANDERSON of Illinois. My own home community is faced with a problem in the area of schoolbusing as the desegregation problem moves northward. They are currently trying to work out a plan that would, as I understand it, in some instances involve busing children other than to the nearest school, but there is an effort to work out a voluntary plan for the community that will satisfy the Federal district court for that area.

As I understand the gentleman's amendment, it would make it possible for my community to work out that kind of a voluntary desegregation plan and still not be denied an allocation of fuel, as it would be if the amendment of the gentleman from Michigan were in effect.

Mr. ECKHARDT. That is correct.

The CHAIRMAN. Does the gentleman from Michigan insist on his point of order?

POINT OF ORDER

Mr. DINGELL. I do, Mr. Chairman.

Let me point out first that the amendment seeks not to amend the bill itself but, rather, to amend the amendment offered by me yesterday and adopted by the House. The amendment is offered to page 7, line 21.

The amendment further amends a section of the bill already amended, again violating the rules of the House.

So I do insist on my point of order.

Mr. ECKHARDT. May I be heard on the point of order?

The CHAIRMAN. The Chair recognizes the gentleman from Texas.

Mr. ECKHARDT. Briefly, Mr. Chairman, the amendment does not touch any language in the Dingell amendment but adds a new subparagraph (1) to the bill which takes care of the specific matter the gentleman from Texas was speaking about in the well.

The CHAIRMAN pro tempore (Mr. McFall). The Chair is prepared to rule.

The Chair has examined the amendment and the text of the bill and desires to state that it does not amend the language of the previous amendment but amends the bill at a further point.

The Chair would refer to a ruling by Mr. Price of Illinois in 1967 which stated that while the Committee of the Whole may strike out an amendment previously agreed to, it may adopt a subsequent amendment which has the effect of negating a proposition previously amended, and in response to the parliamentary inquiry at that time the Chair stated the Committee of the Whole may, if it desires to do so, adopt inconsistent amendments, but the Chair does not rule on the consistency of the amendments.

The Chair also examined the amendment and feels it does not amend language that has been previously amended and therefore overrules the point of order.

MR. KUYKENDALL. Mr. Chairman, I rise in opposition to the amendment.

Yesterday on at least two occasions this amendment or similar ones were ruled in order because they were fuel conservation amendments.

Let me beg all of my fellow Members to realize that if you suddenly separate voluntary agreements on schoolbusing and court-ordered agreements on schoolbusing, you have absolutely removed yourself from the area of fuel conservation and gotten into the forbidden area of school integration.

If the spirit of this bill, which is the conservation of fuel is to be abided by in this body, it does not make any difference whether the travel is voluntary or court ordered. It is still a waste of gasoline, and that is the only legitimate basis on which we can approach it.

If you start saying you are going to tell the courts they cannot have any fuel but any time the school board wants to agree to it they can have it, then you have contradicted yourself in the most flagrant manner.

I happen to approve of the position of the gentleman from Texas with regard to voluntary agreements of any kind they want to make.

But I cannot approve at this time of the waste of fuel, voluntary or otherwise.

THE CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

MR. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, yeas 202, not voting 45, as follows:

[Roll No. 669]

AYES—185

Abzug	Brown, Mich.	Dennis
Adams	Brown, Ohio	Donohue
Addabbo	Burke, Mass.	Dorn
Anderson, Calif.	Burton	Drinan
Anderson, Ill.	Carey, N.Y.	Dulski
Andrews, N. Dak.	Carney, Ohio	Eckhardt
Annunzio	Chisholm	Evans, Colo.
Ashley	Cohen	Fascell
Aspin	Collins, Ill.	Findley
Badillo	Conable	Fish
Barrett	Conte	Flood
Bergland	Conyers	Foley
Blaggi	Corman	Forsythe
Bieber	Coughlin	Fraser
Bingham	Cronin	Frelinghuysen
Blatnik	Culver	Frenzel
Boggs	Daniels, Dominick V.	Gilman
Boland	Danielson	Gonzalez
Brasco	Delaney	Grasso
Breckinridge	Dellenback	Gray
Brotzman	Dellums	Green, Pa.
Brown, Calif.	Denholm	Griffiths

Gude
Guyer
Hamilton
Hanley
Hansen, Idaho
Harrington
Hastings
Hechler, W.Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Holifield
Holtzman
Horton
Howard
Johnson, Colo.
Jordan
Karth
Kastenmeier
Kluczynski
Koch
Kyros
Leggett
Lehman
McClory
McCloskey
McCormack
McEwen
McFall
McKinney
Macdonald
Madden
Madigan
Mallary
Mann
Maraziti
Matsunaga
Mayne
Mazzoli

Meeds
Mezvinsky
Minish
Mink
Mitchell, Md.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nelsen
Nix
Obey
O'Neill
Owens
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Rangel
Rees
Reuss
Rhodes
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Rosenthal
Rostenkowski
Roush

Roy
Roybal
Ruppe
St Germain
Sarbanes
Schroeder
Seiberling
Shriver
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stratton
Studds
Symington
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Ullman
Van Deerlin
Vanik
Waldie
Whalen
Widnall
Wiggins
Wilson, Charles H., Calif.
Wolff
Wright
Wylder
Yates
Young, Ga.
Zwach

NOES—202

Abdnor
Alexander
Andrews, N.C.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Bauman
Beard
Bennett
Bevill
Blackburn
Bowen
Bray
Breaux
Brinkley
Brooks
Broomfield
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener

Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Collier
Collins, Tex.
Conlan
Cotter
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.

Davis, Wis.
de la Garza
Derwinski
Devine
Dickinson
Dingell
Downing
Duncan
du Pont
Edwards, Ala.
Eilberg
Esch
Eshleman
Evins, Tenn.
Fisher
Flowers
Flynt
Ford, William D.
Fountain
Frey
Froehlich
Fulton
Fuqua
Gaydos

Gibbons	McKay	Satterfield
Ginn	McSpadden	Scherle
Goldwater	Mahon	Schneebeli
Goodling	Martin, Nebr.	Sebelius
Green, Oreg.	Martin, N.C.	Shipley
Gross	Mathias, Calif.	Shoup
Grover	Mathis, Ga.	Shuster
Gunter	Michel	Sikes
Haley	Milford	Slack
Hammerschmidt	Miller	Snyder
Hanrahan	Mills, Ark.	Spence
Harsha	Minshall, Ohio	Steed
Henderson	Mitchell, N.Y.	Steelman
Hillis	Mizell	Steiger, Ariz.
Hinshaw	Moakley	Stubblefield
Hogan	Mollohan	Symms
Holt	Montgomery	Talcott
Hosmer	Moorhead, Calif.	Taylor, N.C.
Huber	Myers	Teague, Calif.
Hudnut	Natcher	Teague, Tex.
Hungate	Nedzi	Towell, Nev.
Hutchinson	Nichols	Treen
Jarman	O'Brien	Vander Jagt
Johnson, Pa.	O'Hara	Veysey
Jones, Ala.	Parris	Vigorito
Jones, N.C.	Passman	Waggoner
Jones, Okla.	Patman	Wampler
Jones, Tenn.	Pettis	White
Kazen	Poage	Whitehurst
Kemp	Powell, Ohio	Whitten
Ketchum	Price, Tex.	Wilson, Bob
King	Quillen	Wilson, Charles, Tex.
Kuykendall	Randall	Winn
Landgrebe	Rarick	Wylle
Landrum	Regula	Wyman
Latta	Roberts	Yatron
Lent	Robinson, Va.	Young, Alaska
Litton	Rogers	Young, Fla.
Long, La.	Rooney, Pa.	Young, Ill.
Long, Md.	Rose	Young, S.C.
Lott	Rousselot	Young, Tex.
Lujan	Ruth	Zlon
McCollister	Ryan	
McDade	Sarasin	

NOT VOTING—45

Bell	Hansen, Wash.	Rooney, N.Y.
Bolling	Harvey	Runnels
Brademas	Hawkins	Sandman
Burke, Calif.	Hays	Steele
Clark	Hébert	Stephens
Clawson, Del.	Hunt	Stokes
Clay	Ichord	Stuckey
Dent	Johnson, Calif.	Sullivan
Diggs	Keating	Taylor, Mo.
Edwards, Calif.	Mailliard	Udall
Erlenborn	Melcher	Walsh
Gettys	Metcalf	Ware
Glaimo	Reid	Williams
Gubser	Riegle	Wyatt
Hanna	Roncalio, N.Y.	Zablocki

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KUYKENDALL TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. KUYKENDALL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 107] offered by Mr. Kuykendall to the amendment in the nature of a substitute offered by Mr. Staggers: Page 16, lines 11 and 12, strike out "is authorized by the Commission to provide service" and insert in lieu thereof "has regularly performed service under authority issued by the Commission."

Mr. KUYKENDALL. Mr. Chairman, I wish to have a colloquy on this very short amendment with the gentleman from Michigan (Mr. Dingell).

An amendment was offered in the committee in order to effect considerable savings in the trucking industry by allowing them on a temporary basis to take a direct route between two points when their previous practice of traveling through gateways or certificates had required them to take a circuitous route to arrive at a point.

The gentleman from Michigan (Mr. Dingell) successfully introduced an amendment to correct this situation.

However, the industry has pointed out that one perfecting amendment would be necessary to accomplish exactly what we wish to accomplish without disruption of the industry. So, my amendment simply says that a truckline which has been regularly hauling freight from one point to another by a circuitous route may take the direct route to save fuel, but only if it has been regularly giving this service.

Mr. Chairman, I would like to ask the gentleman from Michigan (Mr. Dingell) to comment on the perfecting amendment.

Mr. DINGELL. Mr. Chairman, I would like to observe that the amendment [Sec. 107] offered by the gentleman from Tennessee is, in my view a, perfecting amendment which would implement the intention of myself as the drafter of the amendment to the committee bill. It also would carry out, I believe, the intention of the committee and it meets the intention of the circumstances and is most helpful.

Mr. Chairman, I would endorse the amendment and hope it would be adopted by this body.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. Kuykendall) to the amendment in the nature of the substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. DINGELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers):

The Clerk read as follows:

Amendment offered by Mr. Dingell to the amendment in the nature of a substitute offered by Mr. Staggers: On page 45, after line 22 insert the following new section:

"Sec. 125. Reports on National Energy Resources

"(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs by product; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

"(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

"(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the purposes of section 1905 of Title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975."

Mr. PICKLE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. Pickle) reserves a point of order on the amendment.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield briefly to my friend, the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, the purpose for my reserving the point of order on the amendment is that we had an amendment similar to this before the committee which the committee voted down and which I thought, perhaps, should have been voted down.

I have just now been able to see this amendment, and I did not know it was going to be offered.

I wish to ask the gentleman, in what respect is this amendment different from the one which was defeated in committee?

Mr. DINGELL. If the gentleman will allow me to proceed with my explanation, I will try to tell him what the amendment does. I will explain to the Members what the amendment provides.

Mr. Chairman, this is a very simple amendment. [Sec. 125.] It says that after enactment of this legislation the Administrator will publish a regulation inviting comments of all interested persons regarding a system which he will establish pursuant to this amendment for the reporting of reserves of persons who hold oil, natural gas, and coal, and regarding production and destinations of petroleum products, natural gas, and coal, as well as refinery runs and products.

The amendment vests this authority in the Administrator, as opposed to the Federal Trade Commission, as it was in the amendment offered in the committee.

The amendment affords the Administrator the duty and the discretion to exclude the unimportant producers, and it does not permit him to collect data which is available from any other governmental agency.

The amendment further would allow the Administrator to make information available to other governmental agencies and the amendment has a very specific restriction in it with regard to the protection of trade secrets or property information, so as to see to it that the interests of the oil companies and the producers will not be jeopardized as to their holdings or reserves in such fashion as to hurt their competitive positions.

The reasons for the amendment, I think, are important. We know more at this time about Russian energy reserves than we know about our own. Indeed, we know more about the reserves of the Russians than we know about the energy resources of our own public lands.

The reason for that is that the oil companies are extremely careful to permit no divulgence of any information regarding energy resources on their oil and gas reserves.

Now we are reportedly in the midst of a serious energy shortage, and it was reported just recently that this was going to reach a certain daily shortage figure. Yet just a few days ago it came out that because of larger production, larger reserves, and greater availability of petroleum resources on the market, the shortage would probably be on the order of a million barrels less than had been previously anticipated.

This amendment says that the Administrator of this agency which we are setting up to handle the emergency allocation of fuel and to do the other things required will, for the first time, have the capacity to procure the information upon which he will make judgments.

It also assures the public at large will have available to it information and procedures that will enable them to gage how well their Government is acting.

I want to make it plain that this amendment protects and preserves the proprietary information and that we have preserved and protected trade secrets so as not to jeopardize the competitive position of the oil companies.

For the benefit of my good friend from Texas, let me say the amendment differs from that offered in the committee in that it procures no information not necessary for the carrying out of the functions of the Administrator and it does not deal with taxes and profits and, in fact, vests authority in the Administrator, who has no capacity absent

the amendment before us to procure the information, rather than vesting it in the Federal Trade Commission, which has said it has certain capacity to procure this kind of information.

Mr. McCOLLISTER. Is it the gentleman's idea that the information that is necessary would exclude wholesale and retail distribution of petroleum products and refined products?

Mr. DINGELL. I would point out to my friend, first of all, that retail sales are not subject to this requirement. Second, the Administrator may exclude those producers and those sources and those actions which do not have a significant impact upon the national interest.

The CHAIRMAN. Does the gentleman from Texas insist on his point of order?

Mr. PICKLE. Mr. Chairman, I withdraw my point of order.

Mr. BROYHILL of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for the purpose of asking the gentleman from Michigan if he will answer some questions about this amendment.

One, who will be covered by this amendment? As I see it here, it is confined to those engaged in exploring and developing and refining and transporting by pipeline any of these petroleum products, such as natural gas, oil, or coal. Does this cover the retail operator?

Mr. DINGELL. The answer is emphatically "no." There is a specific prohibition to reporting in the retail area under (b) four lines up from the bottom of the amendment.

Mr. BROYHILL of North Carolina. Does it cover the oil jobber or distributor?

Mr. DINGELL. It could but probably will not because of the other exclusionary provisions which permit the exclusion of persons who do not have a significant impact upon the economy.

Mr. BROYHILL of North Carolina. Is there an expiration of authority in this proposal?

Mr. DINGELL. Yes. I say to my good friend the provisions of this section will expire in the last line of the amendment on May 15, 1975, which is in accordance with the other expiration dates in the legislation before us.

Mr. BROYHILL of North Carolina. My last question is this: I note in your amendment you say the Administrator shall promptly publish for public comment a regulation. In other words, there will be a rulemaking procedure. How will that procedure go?

Mr. DINGELL. The gentleman is correct. The rulemaking procedure which will take place following the publication which the Administrator would make would be pursuant to the Administrative Procedure Act.

Mr. BROYHILL of North Carolina. You are talking about the actual information required on some questionnaire or some form?

Mr. DINGELL. No. What would happen would be that upon the enactment of the legislation or within a brief period the Administrator would publish a regulation requiring public comment. I am sure this regulation would attract wide public comment, and under the Administrative Procedure Act the Administrator would then be compelled—we are writing, I say to my friend, legislative history here—to hold a public hearing to receive public comments, testimony, and so forth on

the regulation which he had promulgated. Subsequent to that time he would then comply with the Administrative Procedure Act with regard to the actual adoption of the regulation and his actions would be subject to judicial review.

Mr. BROYHILL of North Carolina. That is my next question. Is the gentleman saying that the judicial review sections of the Administrative Procedures Act would apply to any regulations promulgated pursuant to this amendment?

Mr. DINGELL. The answer to that question is an emphatic "yes." The Administrative Procedures Act insofar as its regulations with regard to rulemaking and in regard to judicial review would clearly and concisely apply.

Mr. BROYHILL of North Carolina. When the gentleman says the regulation shall be promulgated 30 days after publication, what does the gentleman mean by that?

Mr. DINGELL. It means that the Administrator would publish the regulation in the Federal Register, inviting appropriate public comment, which would then trigger the mechanism within the Administrative Procedures Act for appropriate public hearings.

Mr. BROYHILL of North Carolina. Would such public hearings be held on the writing of regulations which would carry out the purposes of this amendment?

Mr. DINGELL. The answer to that question is "Yes." It would clearly expect that he would hold hearings on a matter of this complexity. One of the difficulties and one of the problems we have had recently, as the gentleman from North Carolina will recall, in instances of this kind, and one of those instances was the Cost of Living Council, among others, that there have been no public hearings. There has been no publication. That is the reason I have chosen to follow the regular rulemaking procedure, to have a more orderly process, so as to have everybody involved, the public, producer, and so forth, have an opportunity to be heard.

Mr. BROYHILL of North Carolina. The gentleman is saying that the Administrator could not act in an arbitrary or capricious way in promulgating the regulations which are required by this amendment?

Mr. DINGELL. The answer to that question is "Yes." He would have to follow fully the requirements of the Administrative Procedures Act with regard to the promulgation of regulations, the holding of hearings, and subject himself to later judicial review.

Mr. PICKLE. Mr. Chairman, first I want to say that the amendment offered by the gentleman from Michigan (Mr. Dingell) is a much better amendment than the gentleman offered in the committee. That is why the committee had voted it down, because the original amendment talked in terms of gross receipts before taxes, it dealt in the area of prices, and particularly in the area of reserves.

Mr. Chairman, I agree with the intent of the gentleman from Michigan in offering his amendment. I happen to be one who believes that our major oil and gas companies ought to give to the proper authorities basic information on reserves and matters related to reserves and production that have been requested. But it is not as simple as just stating that.

I would request the indulgence of the House for just a moment, if I might, to read a letter which I received from the Federal Trade

Commission in answer to an inquiry that I made about the original amendment that the gentleman from Michigan (Mr. Dingell) offered.

So, although the letter does pertain to the original amendment more specifically than this one, it does make the point that I think is appropriate. The letter is as follows:

FEDERAL TRADE COMMISSION,
Washington, D.C., December 10, 1973.

Hon. J. J. PICKLE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN PICKLE: This is in response to your request to the Federal Trade Commission regarding the amendment offered by Congressman Dingell to add a new section 113 to H.R. 11450. 8

This amendment would authorize the Federal Trade Commission to collect various types of financial information and reserve data from certain energy producing industries with the objective of making this information available to Congress and the public. Some of the financial information involved is already made public by publicly held companies. For example, the Securities and Exchange Commission requires that certain information be made available in annual reports, in connection with the issues of securities, and in other situations.

Other information that the FTC could collect and publish pursuant to this amendment is not presently available to the public. The companies involved regard this information as confidential. They could be expected to object to its public dissemination.

At the present time, the Federal Trade Commission already has authority to obtain the types of information covered by Congressman Dingell's amendment. Our authority resides in Sections 6(b) and 9 of the Federal Trade Commission Act. In this connection, we would point out that the Commission's proposed annual line-of-business reporting program would require much of this information to be submitted by the companies for statistical reporting purposes.

Implementation of this program has been rendered more immediate by recent enactment of the Trans-Alaska Pipeline Act, including the amendments contained therein to the Federal Reports Act of 1942.

However, the Commission does not now make such information available to the public in all cases. First, the Commission has discretion under the Freedom of Information Act to withhold "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552 (b) (4). Second, the Commission, pursuant to the provisions of Section 6(f) of the Federal Trade Commission Act, may not make public trade secrets and names of customers.

Thus, in light of the Commission's existing authority, we do not believe that the authority conferred by Congressman Dingell's amendment is needed to carry out our law-enforcement responsibilities.

To the extent that the information involved is confidential, mandatory public disclosure could have one or more undesirable consequences. First, it could adversely affect competition within the relevant industries. *Cf. U.S. v. Container Corp.*, 393 U.S. 333 (1969). Second, it could put American companies at a disadvantage with foreign competitors who, presumably would not have to reveal the same information.

You also requested information as to the status of the Commission's investigation of the natural gas producing industry. That investigation is currently active and the staff is engaged in collecting and analyzing available information. The investigation has been delayed during the past few months by the refusal of seven major gas producers to provide information in response to Commission subpoenas issued on June 6, 1973. The Commission is currently attempting to enforce compliance with these subpoenas in an action filed in the U.S. District Court for the District of Columbia, and a hearing is now scheduled on the Commission's petition for December 13, 1973.

By direction of the Commission.

CHARLES A. TOBIN, *Secretary*.

Mr. PICKLE. Under the amendment [Sec. 125] which is pending, the gentleman still talks in terms of reserves of crude oil. Reserves? Reserves in itself is just one word, but there are all kinds of reserves. If

he means commercially recoverable reserves, that would be one thing, if he is talking about proven reserves that is another thing. But he is asking for a lot of information that is going to be hard to define, and to secure legally, at least that is why the companies are in a lawsuit now. We may pass this amendment—and I imagine the House will—even though this matter to this moment is in the court today. It must be settled over a period of time, and what we do here is not going to settle anything, really, except set up a new administration rather than funnel it through the Federal Trade Commission or some appropriate agency.

I do not think this bill ought to be used as a vehicle for that.

I agree with the objectives, and I am not going to prolong the debate, but I think probably it ought to belong to the Federal Trade Commission or Federal Power Commission to work out these questions, and these companies ought to cooperate.

Here we are setting up a new agency, a new Administrator, and we are trying to operate under normal rules of procedures or Administrative Procedures Act.

That would be like posting these notices on the courthouse door and that would suffice. It is much more technical, much more realistic than that, to say nothing of some of the loopholes that I believe are in there such as the wholesalers are not exempted under the act. I think what the gentleman is really doing is setting up an agency, the duties of which probably should be given to the Federal Trade Commission. I want to assure the gentleman that I agree that if the companies expect to get added profits or if they want the confidence of the American people, they must come out and give us more information about their reserves and similar information.

Mr. Moss. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think that the impression given—and I am quite confident inadvertently—by my colleague, the gentleman from Texas (Mr. Pickle), that this information is available should be corrected. This information is not available. I have here before me a letter dated December 12, 1973, signed by the Secretary of the Federal Trade Commission in response to my letter to him of December 11, and in discussing the availability of information sought under the Dingell amendment, he said:

We recognize, of course, that this and other important information is not now publicly available in any meaningful level of detail.

The letter goes on and states:

This raises the question whether sufficient data is now available to the government to effectively scrutinize the country's energy-producing industries. We believe not.

Now if we are to effectively undertake our role of legislating in an area of admitted crisis then we should at least have a meaningful inventory of supplies so that we know the limits of the precise situation with which we are dealing. I think it is of the utmost importance that the amendment offered by the gentleman from Michigan be adopted and that this power be made clear. It is a very limited grant but it is an essential one.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do this only to see if we can arrive at a limit of time on the amendment because I believe almost everybody understands the amendment.

Mr. Chairman, I ask unanimous consent that all debate on this amendment to the amendment in the nature of a substitute close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair will recognize Members for approximately three-quarters of a minute.

Mr. FRENZEL. Mr. Chairman, I rise in strong support of the Dingell amendment. No sensible energy policy can be determined or executed without information on hydrocarbon inventories, from reserves to end products, and their use. Information is simply not available now. Without this amendment, it is not likely to become available.

In October, with 30 cosponsors, I introduced H.R. 10670, a bill to authorize the Secretary of the Interior to compile similar information, and data on other nonhydrocarbon energy resources on public lands. The passage of the Dingell amendment will make it unnecessary for me to press for my own bill. I am pleased to support the amendment of the gentleman from Michigan.

Mr. FISH. Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from Michigan. It results in adding a new **section 125** to H.R. 11882. It provides the new Federal Energy Administration, the Congress, the States and the American public with badly needed information on available oil, gas, and coal supplies.

The debate over the past 3 days not only demonstrates the urgency and seriousness of the energy crisis. It also indicates that there is frequent confusion about which direction we ought to be taking. Mr. Chairman, the lights are going out all over this Nation and we are making our energy policies in the dark.

The problem of obtaining reliable statistics and data on energy resources is an incredibly serious one. The lack of adequate information was pointed out when the Congress acted on the Mandatory Fuel Allocation Act earlier this year.

What is needed is accurate, reliable data regarding available energy resources and this amendment represents an important start in this direction. It would establish a regular reporting procedure on the part of those doing business in the United States, who are engaged in exploring, developing, processing, refining, or transporting any petroleum product, natural gas, or coal. These reports would be made available to the Administrator of the Federal Energy Administration, the Congress, and the public.

Just last week, Senators Nelson and Jackson introduced similar legislation which aims at dealing with this energy information gap. Their bill is called the "Energy Information Act" (S. 2782). It would authorize a Federal Bureau of Energy Information which would compile energy resource data. Their partial aim is to reduce our total dependence on the producers for this kind of data.

Both the Dingell amendment and the Nelson-Jackson bill demonstrate a congressional recognition that an information shortage is a

significant part of the energy problem. I applaud these efforts, which hold out the hope that this information void will soon be filled.

Mr. DENNIS. Mr. Chairman, I wanted to ask the Chairman or somebody a question. As I read this, information which qualifies as a trade secret it is still disclosed on request to the Attorney General or any chairman of any congressional committee for any purpose they may desire to carry out their responsibilities in this connection. It seems a pretty broad thing. Is that a general provision of law or peculiar to this act here?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, it is true it is broad, but the information becomes confidential and may not then be disclosed by the Administrator. This is in conformity with the rest of the Federal practices regarding trade secrets.

Mr. DENNIS. It reads that way to me, that he could go to court proceedings with it.

Mr. DINGELL. The answer is he probably could use it in court proceedings but could probably not introduce it in evidence without authorization of other statutes, to which this amendment does not address itself. In any event, before he could get that kind of information, he would have to go to court and use the usual process of the court. The court would consider the regular practices in cases of this sort.

Mr. PICKLE. Mr. Chairman, the gentleman from California (Mr. Moss) made reference to a letter of December 12. I have received a copy of the same letter. I want to assure the gentleman that what I was reading was from a letter of December 10 from the Federal Trade Commission. I think both letters are not in question because they pertain in the one instance to the original amendment by the gentleman from Michigan (Mr. Dingell) and in the other letter to additional points now pending, similar to the one we have under discussion.

The main complaint that the Federal Trade Commission had was that under the original amendment they would be forced to convey information that would be confidential and related to trade secrets. Obviously this has been deleted from this amendment. I would still state I think, there is a better way to handle this—not under an allocation bill.

Mr. ROGERS. Mr. Chairman, I strongly support this amendment. I do not know how any Administrator could begin to do what this bill tells him to do to help this Nation in a fuel shortage, unless he knows what the reserves are and what the production in this country is. It is simply an impossible task. He is dealing in the clouds otherwise.

We have heard a variety of figures given as to our petroleum shortage. And almost weekly we have seen the percentages predicted bob like a yo-yo. We do not really know if we have a shortfall of 15 or 17 or 30 or 35 percent.

And this is because we do not have an inventory of our petroleum. All our information comes from the petroleum industry itself. And this has resulted in rollercoaster estimates of barrels and gallons of available petroleum.

The entire Nation is now searching for an answer. I submit that we cannot reach a solution to the problem if we do not have the figures which will properly define just where we are so far as our petroleum resources are concerned.

And so I urge passage of this amendment which will, I feel, bring order from a Babel of facts and figures on our petroleum resources. Certainly this is one of the most important factors in truly facing the problem.

I would urge this is a first step to even begin to meet the energy problem. We must know what we produce. We must know what we can count on in the future.

Mr. STAGGERS. Mr. Chairman, I agree with the objectives of the amendment and urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Dingell) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 125.]**

AMENDMENT OFFERED BY MR. McCOLLISTER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. McCOLLISTER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment **[Sec. 201]** offered by Mr. McCollister to the amendment in the nature of a substitute offered by Mr. Staggers: On page 54, insert after line 8, the following new subsection:

"(i) (1) In order to conserve available supplies of liquid and gaseous fuels, each coal-fired steam electric generating station which is eligible for such an exemption as provided in paragraph (2) is hereby exempted from all applicable stationary source fuel or emission limitations, unless the Administrator determines that the cost of compliance with any such limitation is reasonable in light of the projected useful life of the station, the availability of rate base increases to pay for such costs, and the risk to public health and the environment which may be associated with exemption from such limitation.

"(2) The exemption provided for in paragraph (i) shall only apply to coal-fired steam electric generating stations (A) which are to be taken out of service permanently by December 31, 1980, due to the age and condition of the station, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the utility operating such station, (B) for which a certification to that effect has been annually filed with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the FPC has determined that the certification has been made in good faith and the plan to cease operations by December 31, 1980, is likely to be carried out as planned in light of existing and prospective power supply requirements.

"(3) The Administrator of EPA shall be authorized to prescribe interim requirements for any source exempted from any stationary source fuel or emission limitations under this subsection so long as such requirements impose only reasonable costs in light of the criteria prescribed in paragraph (i).

Mr. McCOLLISTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. McCOLLISTER. Mr. Chairman, there are powerplants around this country that are bordering on being obsolete, which if necessary to

comply with all the requirements of the EPA will be put out of service very promptly. They have a few years of remaining life.

This amendment describes a procedure by which they may make annual petition that the requirements be exempted.

I discussed the amendment with the gentlemen on both sides of the committee. Committee counsel had drafted the amendment.

I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I do agree with the objectives of the amendment. I think that there are sufficient protections in the amendment that the gentleman has offered.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. McCollister) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 201(i).]**

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS TO THE AMENDMENT
IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment **[Sec. 206]** offered by Mr. Anderson of Illinois to the amendment in the nature of a substitute offered by Mr. Staggers:

Page 64, line 9, insert "(a)" before "The";

Page 65, insert after line 20 the following:

"(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

"(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems."

"(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the

Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974."

Mr. ANDERSON of Illinois [during the reading]. Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, that it be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. BROYHILL of North Carolina. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from North Carolina reserves a point of order on the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, the amendment which I am offering to **section 206** of the substitute bill would essentially do two things. First, it would require that within 90 days after the date of enactment, the Secretary of Transportation, after consultation with the Administrator of the Federal Energy Administration, submit to the Congress for appropriate action an emergency mass transportation assistance plan for the purpose of conserving energy by expanding and improving mass transportation services as alternatives to automobile travel. Second, my amendment would require that within the first 12 months of next year, the Secretary of Transportation, in consultation with the Administrator, shall submit to the Congress and the President the results of a study into the feasibility of developing a high-speed ground transportation system along the west coast of the United States. The second part of my amendment has been drafted by Mr. Anderson and Mrs. Burke of California.

Mr. Chairman, let me point out at the outset that my amendment in no way duplicates either **section 105** or the existing language of **section 206** of the substitute. **Section 105** requires the Administrator to submit to the Congress within 30 days energy conservation plans. The transportation energy conservation plan called for by that section is defined as plans for transportation controls—including highway speed limits, and plans for maximizing car pooling arrangements in all communities and businesses where applicable. While this stick approach of controls will obviously be needed to see us through this energy crisis, controls alone will not solve the problem, and indeed, in some cases will create new problems, particularly in the area of reduced automobile travel.

The new fuel allocation regulations are obviously going to impact the hardest on automobile users. President Nixon has stated that our goal in the first quarter of 1974 will be a 24-percent reduction in automobile use, including a 50-percent reduction in pleasure driving. It is

readily apparent that these controls will result in great hardship and inconvenience for millions of American motorists, and for that reason, I think we must address ourselves in this legislation today to providing emergency alternative modes of transportation, particularly in the area of expanded mass transportation services.

To accomplish this, my amendment is aimed at the carrot approach of incentives and assistance for expanded mass transportation services and increased ridership. Under my amendment, the Secretary of Transportation would submit to the Congress within 3 months of enactment a comprehensive strategy for providing emergency mass transportation assistance. The Secretary's plan would include recommendations for emergency capital and operating assistance for mass transportation systems, recommendations for fare-free and low-fare mass transportation demonstration programs, recommendations for additional emergency assistance for the construction of fringe parking facilities for mass transit passengers, and recommendations on providing tax incentives for mass transit users—proposal made by my colleague from Illinois, Mr. Derwinski. I would emphasize that the Secretary would not be required to make an affirmative recommendation on each of these items, but he would have to make a recommendation one way or another on each.

I would also emphasize that my amendment in no way duplicates the existing language of **section 206** which requires the Administrator to make an energy conservation study and submit his findings to Congress within 6 months. That study would include federally sponsored incentives for the use of public transit, including authority to require additional production of buses or other means of public transit, and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service. The study would also address itself to the costs and benefits of electrifying rail lines in the United States with a high density of traffic.

While such a study will be useful to us in our future deliberations, and while it does touch on some of the items referred to in my own amendment, I would point out that a 6-month study will not address itself to the immediate needs of our public mass transportation systems and the needs of those who will be forced to abandon their automobiles and find other ways to get to and from their places of business. My amendment goes beyond a mere study in calling for an emergency action strategy for assisting mass transportation systems now as they attempt to cope with increased ridership.

In this regard, I was encouraged to read in this morning's Washington Post that the administration has decided to propose a separate urban transportation fund which could be used for both highway and mass transit programs, including operating assistance. While I have not had the opportunity to verify this report, this proposal would certainly be within the scope of the "emergency mass transportation assistance plan" which my amendment calls for.

Mr. Chairman, the time for such a national emergency mass transportation strategy is now. The indications are already coming in that after a 30-year decline in mass transportation systems, the trend is beginning to reverse itself, mainly due to fuel shortages and the resulting curtailment of gasoline sales for automobiles and the cancellation of

airline flights. Whereas city transit ridership plummeted from a peak of 23 billion passengers in 1945 to 6.5 billion in 1972, these systems are now beginning to show a slight gain in ridership, only the second such gain since 1950. The Chicago Transit Authority, for instance, in my own State of Illinois, reports that revenue passengers were up 1.2 percent, that is 457,000 fares, for the first 3 weeks in November, over the same 3 weeks in 1972. The overall ridership on the CTA during the first 11 months of this year declined only 0.3 of 1 percent which is the smallest decrease since the second World War.

Two Chicago commuter railroads, the Burlington and Northern, show ridership gains of 7 and 9 percent respectively this October over last year. By the same token, Amtrak shows a ridership gain of 25 percent this year over last year; and the Greyhound bus lines posted a 10-percent increase in ridership over the Thanksgiving holidays over the seasonal norm.

And yet, despite the recent upswing in mass transit users, the deficit problem of mass transit continues. As the Christian Science Monitor reported on December 6, the reason these systems are not making more money with increased ridership is because most of the increase comes during peak-use hours when most equipment is already in use. This means adding more equipment and more drivers, thus forcing operating costs up. And few carriers have the necessary additional equipment to handle this load.

Mr. Chairman, all these facts clearly argue for emergency mass transportation assistance now. I am encouraged that the Government has already designated mass transit as a priority user for diesel fuel. The amendment which I am offering today will help to insure that we will have an adequate mass transportation system to carry the increase in passengers due to the energy crisis. I urge its adoption.

Mr. ROGERS. Mr. Chairman, I am most impressed with the gentleman's amendment. I think what he says is true, that if we are going to do anything about reducing automobile travel, we are going to have to move to mass transit.

Mr. Chairman, I would support the gentleman's amendment.

Mr. MURPHY of New York. Mr. Chairman, would the gentleman's amendment go to the point of a study to provide for incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service?

Mr. ANDERSON of Illinois. Mr. Chairman, I think it would clearly. Under subparagraph C-1, recommendations for emergency temporary grants to assist cities and local bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of mass transportation services in urban areas, I think clearly within the purview of that subsection there would be the authority to recommend to Congress what ought to be done about some problems in that area.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding to me. I think his amendment is a very constructive one and fills a gap in this legislation.

Mr. DON H. CLAUSEN. Mr. Chairman, is this basically a study provision?

Mr. ANDERSON of Illinois. Basically, that is exactly what it is. I want to point out also, which will be I think of particular interest to the gentleman from California, that in paragraph 5(d), we also provide for a study of the possibility for the purposes of conserving energy of developing a high speed ground transportation system between the cities of Tijuana, Mexico, and Vancouver in the province of British Columbia.

That section was drafted by my colleagues on this side of the aisle, Mr. Anderson of California, and Mrs. Burke of California as an addition to the overall purpose of the amendment. I gratefully acknowledge their help and participation in advancing the cause of improved mass transportation in the United States.

Mr. DENNIS. Mr. Chairman, what will the gentleman's amendment do that is not included in Sec. 206, subsection 2, on page 64 of the bill?

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman for asking that question. I did not have time to point out earlier that this amendment, in my opinion, does not duplicate the existing language of section 206, because that is essence requires the Administrator simply to make an energy conservation study and submit his findings to Congress within 6 months.

While it is true that that study could include federally sponsored incentives for the use of mass transit, including the authority to require the additional production of buses and Federal subsidies for the duration of the emergency. I think that it does not touch on all of the items that are referred to in my amendment.

Mr. Chairman, I would point out further that a 6-month study, as called for in section 206 of the committee substitute, would not address itself to the immediate needs of our public mass transit systems and the needs of those who are going to be forced to abandon their automobiles during this energy crisis.

Mr. DELLENBACK. Mr. Chairman, will the gentleman yield?

Mr. Chairman, may I just say a strong word of support for the amendment.

I was particularly pleased, understandably, concerning the comment which the gentleman in the well made about the study to consider mass transportation up and down the west coast. This is a badly needed study.

We were prepared to offer that as a separate amendment.

Mr. Chairman, I am pleased to support the gentleman's amendment. I commend the gentleman and I hope that his amendment will be adopted.

Mr. KEMP. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague, the gentleman from Illinois (Mr. Anderson) to amend section 206 of the substitute bill. It has my enthusiastic and unqualified support. I commend the gentleman for his leadership.

Mr. Anderson's proposal, which would require the Secretary of Transportation to submit to the Congress a comprehensive plan for providing emergency mass transportation systems, is not only timely and creative in the environment of the energy shortage but is additionally responsive to the requirements for a more balanced U.S. transportation system in both the immediate and following years ahead.

Rapid rail transportation, within urban areas and intercity, is a necessity not only for the development of our communities, including western New York, but for relief of America's congested roads and restoration of our environment.

The speed-up of the Buffalo to Amherst rapid rail system, presently in the engineering and environmental study stage, is a critical concern in our community. This priority project, more urgent than ever because of fuel shortages, is receiving the fullest possible attention through our cooperative, local, Federal, congressional efforts, including planned meetings here in Washington in the near future to help expedite Federal approval of grants and hasten ongoing work on the project. But more needs to be done.

There must be an even greater Federal commitment to mass transportation. I will fight for that commitment for my community and for our country.

The existing fuel shortage would certainly be alleviated by an accelerated expansion of service on Amtrak and other intercity and commuter passenger service. Such an expansion, I believe, should include the resumption of rail passenger service west from Buffalo to Chicago through Cleveland and to connecting links with other regions of our Nation.

Many of us in this body and in the Senate have repeatedly exerted efforts to restore this rail passenger service, all the way from New York City to Chicago, since I first came to the Congress in 1971. Last month, 14 of my colleagues from New York State, joined Mr. Dulski and myself in an appeal to Mr. Roger Lewis, the President of Amtrak, to extend the New York City to Buffalo route to Chicago. Similar appeals have been sent to Mr. Lewis from our colleagues in Ohio, Pennsylvania, and other affected States.

Mr. Chairman, the energy shortage emphatically underscores the need for not only restoration of this particular service but for vastly expanded rail service in all urban corridors of our Nation.

During the Thanksgiving holiday, Amtrak and other rail passenger carriers were flooded with reservation requests far beyond anticipated patronage. Even as we meet here today, Amtrak is preparing to put additional equipment into service in an attempt to meet needs of travelers during the Christmas holidays.

The Associated Press yesterday reported that—

Before the energy crisis started hitting home, Amtrak estimated its annual growth rate was about 11 percent. It now is over 25 percent.

Increasing demand for rail passenger service certainly would not be limited to holidays in weeks, months, and years ahead, especially when we confront cutbacks in the schedules of airlines, limits on supplies of gasoline for private vehicles and other effects of the fuel shortage.

Equally as critical as efficient and environmentally sound intercity mass transportation is a speeded up and expanded program for rapid rail mass transit within America's cities.

The ability to commute to jobs, schools, and other necessary destinations should not be left to private transportation, no matter how efficient our technical capability may make this mode of transportation at some future date.

The Buffalo Courier-Express, in recent days, astutely pointed out in an editorial that the Buffalo to Amherst rapid rail transit system "surely qualifies for priority treatment."

I wholeheartedly concur. I hasten to add that similar systems, throughout our country, qualify for the same "priority treatment" when, as the editorial points out, the energy crisis is certain to be with us for some years.

I do not believe that a plethora of stopgap measures, by Federal edict or congressional enactment, will effectively address themselves to our long-range energy and transportation problems.

I do believe, as the Evening News has stated, that we must "stop dawdling over mass transit and an eroded rail system crying for retrieval."

I do believe we can help to create a climate to develop the technologies and resources to make our country self-sufficient for the energy requirements of an even greater Nation.

Mr. Anderson's amendment is addressed toward such a course.

I urge overwhelming support for its passage.

The CHAIRMAN. The gentleman from North Carolina (Mr. Broyhill) has reserved a point of order on the amendment.

Does the gentleman insist upon his point of order?

Mr. BROYHILL of North Carolina. Mr. Chairman, I withdraw my point of order.

Mrs. GREEN of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the entire amendment offered by the gentleman from Illinois.

I would direct my comments primarily to **section (d)** which essentially would direct the Secretary of Transportation to conduct a feasibility study of a high-speed ground transportation system on the west coast. This would link the major cities from Mexico to Vancouver, British Columbia, with service to Seattle, Portland, Sacramento, San Francisco, Fresno, Los Angeles, and San Diego. Most important in considering this emergency energy legislation is the study of the amount of energy that could be saved and the impact on energy resources, including the future impact of existing transportation systems, if a high-speed ground transportation system is established.

Almost identical legislation to **section (d)** was introduced in the Senate, had the unanimous support of the Commerce Committee, and passed the other body over 5 months ago.

Mr. Chairman, the major transportation vehicles linking the urban areas on the west coast have for many years, now, been the automobile and the airplane—the two costliest modes of transportation in terms of fuel consumption. With projected fuel shortages as high as 25 percent for the upcoming year, it is essential that we immediately look to the development of an integrated transportation system which will insure real fuel savings. An efficient transportation system on the west coast is inextricably tied to this Nation's economy. If transportation comes to a standstill due to a lack of fuel supplies, repercussions will be sorely felt throughout the country, not just the west coast.

Mr. Chairman, the leadtime for the development of a high-speed ground transportation network—if a feasibility study substantiates the case for it—will be great. Meanwhile, the number of interurban

travelers each year increases. The projected rate of population growth between 1970 and 1990 for the States of Oregon and Washington alone is 31 percent. In addition, each year in many areas the automobile is adding a greater burden to the resolution of highway congestion problems, pollution problems, and so forth. It seems to me that now is the time to begin moving toward the development of a more efficient system.

I urge my colleagues to consider the benefits of the northeast corridor program. Most of us will recall the study authorized by Congress in the late 1960's of the ground transportation requirements in the Washington-Boston area. Since that time the Metroliner-Turbo-Train operation has proven very successful, and projections for this network as a truly energy-efficient alternative to the car and plane in my mind argue for at least a study of the benefits a similar high-speed ground transportation system could have for the west coast.

And so, I ask my colleagues to support this amendment. As I have stated previously **section (d)** merely requires a feasibility study. There is no commitment to subsequent Federal action pending a report back to this Chamber.

Mr. BROWN of California. Mr. Chairman, I thank the gentlewoman for yielding.

I rise in support of this amendment. It goes a good deal of the way in the direction of the comments I made yesterday in expressing my hope that out of this bill will evolve some truly significant thrusts in the direction of solving some of our energy problems on a long-term basis.

Mr. Chairman, I believe this amendment will help to do that.

Mr. ANDERSON of California. Mr. Chairman, I thank the gentlewoman for yielding.

I rise in strong support of this amendment and urge an aye vote on it.

Mr. Chairman, **subparagraph (d)** of this amendment directs the Secretary of Transportation, in consultation with the Federal Energy Administrator, to make an investigation and study of the feasibility of a high-speed ground transportation system linking the major cities of the west coast.

Specifically, this part of the amendment would require a study of the most practical and energy efficient method of transportation in the corridor leading from San Diego, Calif., to Vancouver, on the Canadian border—a study that was adopted unanimously in the Senate and should not cost more than \$8 million.

Many of the Members here are not familiar with some of the problems we have on the west coast. And one of those problems is intercity travel—travel between San Diego, Los Angeles, San Francisco, and other great cities. In fact, the Nation's most heavily traveled air corridor by 3 to 1 is the route between Los Angeles and San Francisco.

Furthermore, the traffic forecast indicates that by 1985, the growth factor alone in this west coast route will amount to several times more than the traffic which now exists in the next densest air short-haul route—Boston to New York.

By automobile, we presently have 6 million trips a year between Los Angeles and San Francisco. This is about equivalent to the auto trips in a year between New York and Boston.

Today, with our energy crisis, we must be examining alternatives to both the automobile and the airplane to permit people access to travel for business and pleasure. Obviously, one way of gaining the most benefit from our precious energy resources is to provide a ground system—similar to the Metroliner—which gets the maximum passenger miles per gallon.

If travel within the west coast area were ever curtailed, because of a lack of an adequate transportation system, serious harm would be done to the economy of the region, as well as the country as a whole.

But presently, we do not even have a plan.

This amendment would direct the Secretary of Transportation—with the Federal Energy Administration, to undertake a study considering such factors as the cost, the alternatives, the efficiency of energy utilization, the prospects for commercial success of such a system, and other factors dealing with a high-speed ground transportation system on the west coast.

This report would be presented to the Congress no later than December 31, 1974, along with any recommendations the Secretary may have.

Mr. Chairman, the real force behind this amendment, and the person who has taken the lead in the effort to obtain this study is, unfortunately, in Los Angeles. She is there taking care of her new daughter—Autumn Roxanne—but were Yvonne Burke here, I am sure that she could present the very real need for this proposal much better than I.

Thus, I ask for an affirmative vote on Mr. Anderson and Mrs. Burke's amendment to authorize a mass transit study and a west coast high-speed ground transportation study so that we may have the information necessary to conserve energy.

Mr. BUCHANAN. Mr. Chairman, I rise in support of the amendment.

Ms. ABZUG. Mr. Chairman, I rise in support of the direction which the amendment takes. I recognize that the intent of the amendment of the gentleman from Illinois is to develop plans to encourage the use of mass transportation—and so to get people out of their cars and conserve our energy supplies.

There is a strong relationship between mass transportation and energy. In order to cope with our dwindling supply of fuel oil, every method of energy conservation must be fully exploited. It is now clear that the promotion of mass transportation is critical to achieving our national goal of fuel conservation through the reduction of vehicular traffic.

Now is the time, in the legislation before us, to make full recognition of mass transportation as a significant energy conserving modality. We have here an opportunity to take positive action toward encouraging people to leave their cars at home and to switch to their local, public or private transit systems.

The gentleman's amendment addresses the question of the relationship between mass transit and energy and should be supported. However, it does not go far enough. The House should take positive action. If we really are concerned about conserving our energy supplies we must act as quickly as possible to make mass transit more attractive.

One significant way in which the goal might be accomplished is to prohibit increases in, or reduce, the fares of any public or private mass transit system throughout the Nation for the duration of the energy

emergency. Funds ought to be provided to cover the costs incurred due to the fare increase prohibition or reduction and also due to increased services provided by those systems. Therefore, while I support this amendment, I will strongly support the amendment of the gentleman from New York (Mr. Murphy), to be offered for the New York City delegation, which would provide for maintenance of, or reduction in mass transit fares during this emergency. In fact, in answer to a question from the gentleman from New York, the gentleman from Illinois responded that the concept of such a program as I have just described could be promulgated under his amendment.

A fare freeze, or reduction now, coupled with the implementation of the plans developed under the gentleman's amendment would serve to check automobile use, conserve energy supplies and have the added benefit of protecting the environment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Anderson) to the amendment in the nature of a substitute, offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 206 (b), (c), and (d).]**

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise at this time in order to see if we can reach some accommodation on the time limit for debate on the remainder of the bill and all amendments thereto.

We are proceeding pretty rapidly right now, and we have gotten to that point where we have disposed of most of the controversial issues.

I wonder if we could come to an accommodation of time, say, 10 minutes for each amendment which is now at the desk?

Mr. BROXHILL of North Carolina. Mr. Chairman, I rise in support of the gentleman's effort. I think that the arrangement which he has suggested is in the interest of the bill.

If I understand what the gentleman is proposing to do, it is to have 5 minutes allowed for the proponents of an amendment and 5 minutes allowed for the opponents of an amendment; is that correct?

Mr. STAGGERS. The gentleman is correct. I have tried to do that to see that the amendments offered by the committee and by other Members will be alternated as between the committee members and the non-committee members, and I shall do as much as I can on this side, and I assume that the gentleman will on his side, to see that each Member will have an opportunity to present his amendment, as well as the members of the committee.

Mr. Chairman, I ask unanimous consent that each amendment to the amendment in the nature of a substitute offered be considered for not more than 5 minutes on each side.

Mr. BROXHILL of North Carolina. There will be differences of opinion on this. Some Members want to finish the bill up and others do not. But it seems to me that this is a fair arrangement. Some of these amendments that are pending are not in order to the bill. I could not make that judgment for the Chair, but that is my opinion at least. I think we can finish this bill up under the arrangement suggested by the chairman.

Mr. STAGGERS. I think there are several that are not germane. In looking them over, many of them are not. There are several that we

can accept. I have heard at least six Members say they have amendments that they are not going to offer, and I am sure there are many more that will not be offered. I would like to arrive at some kind of an understanding, if we could, on this matter.

The CHAIRMAN. The gentleman from West Virginia (Mr. Staggers) asks unanimous consent that each amendment to the amendment in the nature of a substitute offered be considered for not more than 5 minutes on each side.

Is there objection to the request of the gentleman from West Virginia?

Mr. CRANE. Mr. Chairman, reserving the right to object, I know there are a number of amendments offered by Members of this body who are not members of the Committee on Interstate and Foreign Commerce. We are today on our third day, but we know that was a 3-day markup session by the Committee on Interstate and Foreign Commerce, and the rest of us have sat around here as spectators, and frankly I have a profound feeling of resentment that the committee should put us into this kind of a situation. We are Members of the House, but we are not privileged to be members of the committee, and I do not think that in view of the long period of discussion allowed to members of the committee the rest of us should be limited to 10 minutes on each amendment that we have to offer.

It is apparent on the fact of what has gone on here that this bill should never have been brought to the floor.

Mr. STAGGERS. Mr. Chairman, I would like to respond to the gentleman.

I said in my motion that we would allow sufficient time. We have been yielding sufficient time for everyone to speak. We have taken up at least four amendments that the committee itself did not bring out. I will say that for every amendment the committee brings up from now on we will allow one for Members who are not members of the committee to bring up.

Mr. CRANE. With all due respect, it seems to me that the committee, with the exception of those four amendments that the chairman of the committee has referred to, has dominated the time for 2½ days. Equal time should surely dictate the other 400 Members of this body might have an equivalent period of time.

Mr. STAGGERS. Two and a half days? I would say to the gentleman, not to be frivolous in any way, that if at the end of 10 minutes an additional length of time is required, I would certainly be willing to see if that time could be secured.

Mr. CRANE. Mr. Chairman, I object to the limitation of 10 minutes for discussion.

The CHAIRMAN (Mr. Bolling). The Chair cannot entertain a motion on this matter. Is objection heard?

Mr. PRICE of Texas. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRIES

Mr. WILLIAMS. Mr. Chairman, a parliamentary inquiry.

Why cannot the Chair accept a motion from the Chairman of the Committee to limit debate on each amendment to 10 minutes?

The CHAIRMAN. A motion to control debate can neither divide the time nor allocate or reserve the time. A unanimous-consent request, if agreed to, can do that, but a motion to allocate and break up time is not entertainable.

Mr. WILLIAMS. Would a motion to limit debate on each amendment to 10 minutes be in order?

The CHAIRMAN. That would be in order.

Mr. WILLIAMS. Then, in that case, I would like to say to my esteemed colleague—

The CHAIRMAN. On individual amendments. A motion to limit debate on individual amendments to 10 minutes with no allocation of the 10 minutes would be in order.

Mr. WILLIAMS. But it has to be made on each individual amendment?

The CHAIRMAN. It has to be offered to each individual amendment after each amendment is offered.

Mr. O'NEILL. A parliamentary inquiry, Mr. Chairman.

A motion would be in order to end all debate on all amendments pending at 7 o'clock?

The CHAIRMAN. Such a motion to end all debate on the Staggers amendment and all amendments thereto at an hour certain would be in order.

Mr. O'NEILL. I thank the Chairman.

Mr. STAGGERS. Mr. Chairman, if I still have the time under the 5-minute rule I would like just to enter into a colloquy if I could with the ranking minority member.

Mr. STAGGERS. Mr. Chairman, if I might engage in a colloquy with the ranking minority member on the committee, the gentleman from Ohio (Mr. Devine) and the gentleman from North Carolina (Mr. Broyhill), who is handling the bill, I would ask them what would be their consensus as to finding a time to end this debate on this bill and all amendments thereto.

Mr. DEVINE. Mr. Chairman, I would say it depends on what each individual Member feels as to what his interest may be in the bill. I think the only way we can make that determination is to try several motions until perhaps one passes.

Mr. BROYHILL of North Carolina. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROYHILL of North Carolina. Mr. Chairman, my parliamentary inquiry is this: If the time is limited, would only those Members who are presently standing and would be listed—would they be the only Members who could be recognized either to propose an amendment or to oppose an amendment?

The CHAIRMAN. The Chair will state any motion that the Chair can conceive of would involve enough time so that the Chair would feel that he could reserve that right to recognize Members under the 5-minute rule.

The Chair will explain that if needed.

The gentleman is talking about limiting debate on the amendment in the nature of a substitute, and all amendments thereto?

Mr. BROYHILL of North Carolina. That is correct, Mr. Chairman.

The CHAIRMAN. The Chairman would presume that there will be a substantial block of amendments, and the Chair would feel that the

Chair should not fail to protect the Members who are not in the Chamber at the moment who might have amendments that they sought to offer.

Mr. BROYHILL of North Carolina. I thank the Chairman.

Mr. DEVINE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DEVINE. Mr. Chairman, my parliamentary inquiry is this: Is a motion now in order to say that the House will vote on the bill and all amendments thereto by a time certain?

The CHAIRMAN. The Chair will state that a motion to limit debate on the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers) and all amendments thereto, to a time certain, would be in order.

Mr. DEVINE. Mr. Chairman, I therefore will make that motion.

Mr. Chairman, I move that all debate on the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers) and all amendments thereto, close at 5:30 p.m. today.

The CHAIRMAN. The Chair will state that the gentleman from Ohio (Mr. Devine) has made a motion.

Mr. GROSS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GROSS. Mr. Chairman, my parliamentary inquiry is this: Must that motion be in writing?

The CHAIRMAN. The Chair will state that the motion must be in writing if the gentleman insists upon it.

Mr. GROSS. Mr. Chairman, I do so insist.

PREFERENTIAL MOTION OFFERED BY MR. LANDRUM

Mr. LANDRUM. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Landrum moves that the Committee do now rise and report the bill back to the House was the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Georgia (Mr. Landrum) is recognized for 5 minutes in support of his preferential motion.

Mr. LANDRUM. Mr. Chairman, during the entire 21 years that I have had the pleasure of serving in this body, this is the first time that I have ever offered such a motion. But now it is obvious, despite the tremendous efforts of the distinguished chairman and the ranking minority member of the Committee on Interstate and Foreign Commerce, that the committee has not been able to write a bill in its own committee, that it comes in to the Committee of the Whole and after 2½ days, has failed to write what the membership desires. Therefore, we ought to send this back to the Interstate Committee.

It is now obvious that if we stay here long enough to finish this bill—I do not know how long it would be—that the bill would not be recognizable and that it would be impossible of enforcement, and that no one in the country would know what was in it, what he had to do or when to do it.

Mr. Chairman, I insist upon a vote on the motion.

Mr. STAGGERS. Mr. Chairman, I oppose the motion. I respect the motive of the gentleman from Georgia, but I might say to him that never has a bill been worked on so hard and so diligently by a com-

mittee as our committee, the Committee on Interstate and Foreign Commerce. I would pit those 42 men against any 42 men in the House as to their capabilities, their qualifications, their diligence, and their intelligence. They have worked, and they have worked into the night several nights, trying to complete the bill. They came up with the very finest bill they could.

The President of the United States took to television and informed the American people that this is one of the bills that he must have before this Congress goes home. I dare say that if we do not vote on this bill, either vote it up or down, the President will say that we have not done our jobs.

I think we ought to stay here until we have perfected the bill and done the very best that we can. There has been no bill brought to this floor that was perfect. And there has never been one perfect bill come out of this House.

The gentleman from Georgia mentions the fact of taking so long here. I would say that bills that come out of the Committee on Ways and Means and other committees where there are closed rules, and Members not on those committees cannot offer amendments there are so many important aspects of this bill. We have in here authority to expedite the procedures for bringing in power from Canada, which they are willing to give to us, but which under the present circumstances we cannot get, which would help alleviate our energy shortage right away.

There are many other factors of the bill that are so important to America. I say that this is one of the most important bills that the House will consider this year. I said that when it came to the floor, that it is one of the most important bills that has ever been brought to the floor. I say that again, because it affects the lives of every American. It tries to give equitable treatment to all individuals, and not let just one segment run wild making great profits, and allowing those who are at their mercy to be forced to pay the bill and to take what they can get, which would let the favored few of America just ride herd over the rest of us.

I would not want to go back home to my constituents and say that I had not done my job. I do not think there is a man in this House who wants to do that. This is what we were elected to do, to do our job, and I think every man has the moral courage to do it, to perfect the bill, and then go back home and say, "We have done our best."

I say, if we do not, and if we quit, we do not have moral courage. I think the time has come for the representatives of the American people to stay here if it takes from now until after Christmas to complete this work.

I say it can be done tonight, and the time is right now. That is the reason I oppose the proposition offered by the gentleman from Georgia.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Georgia (Mr. Landrum).

The preferential motion was rejected.

PARLIAMENTARY INQUIRY

Mr. DEVINE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from Ohio will state it.

Mr. DEVINE. At the time the gentleman from Georgia made his preferential motion, I had already made a motion before the House, and it was requested that that be put in writing. That was done, and it is currently at the Clerk's desk. I wonder what the status of that motion is that was pending at the time the preferential motion was made.

The CHAIRMAN. The preferential motion takes precedence. The preferential motion was rejected.

MOTION OFFERED BY MR. DEVINE

Mr. DEVINE. Mr. Chairman, I offer a motion.

The Clerk read as follows:

Mr. Devine moves that all debate on the amendment in the nature of a substitute, H.R. 11882, and all amendments thereto be concluded by 6:30 p.m.

PARLIAMENTARY INQUIRIES

Mr. LANDRUM. Mr. Chairman, a parliamentary inquiry. The Chair has not ruled on the preferential motion.

The CHAIRMAN. The Chair had ruled that the preferential motion had been defeated.

Mr. LANDRUM. The Chairman had ruled?

The CHAIRMAN. Yes; the Chair announced the result of the vote and had recognized the gentleman from Ohio.

Mr. SYMMS. Mr. Chairman, a parliamentary inquiry. I was on my feet at the time.

The CHAIRMAN. The gentleman may have been on his feet but he did not address the Chair.

The Chair has attempted very hard to be fair and he did not hear the gentleman.

Mr. SYMMS. I thank the Chairman, but I was on my feet.

The CHAIRMAN. The question is on the motion offered by the gentleman from Ohio (Mr. Devine).

Mr. GROSS. Mr. Chairman, a parliamentary inquiry. Is this motion subject to debate?

The CHAIRMAN. It is not subject to debate.

The question is on the motion offered by the gentleman from Ohio (Mr. Devine).

The question was taken; and on a division (demanded by Mr. Staggers) there were—ayes 84, noes 71.

RECORDED VOTE

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 196, not voting 40, as follows:

[Roll No. 670]

AYES—197

Adams
Addabbo
Albert
Alexander
Andrews, N.C.

Andrews, N. Dak.
Arends
Ashley
Aspin
Bafalis

Barrett
Bevill
Boland
Bowen
Brasco

Bray	Harrington	Price, Ill.
Breckinridge	Harsha	Quillen
Brooks	Harvey	Rangel
Brown, Calif.	Hawkins	Reuss
Brown, Ohio	Henderson	Rhodes
Broyhill, N.C.	Hicks	Roberts
Broyhill, Va.	Holifield	Rogers
Burgener	Holt	Roncalio, Wyo.
Burke, Mass.	Hosmer	Rooney, Pa.
Burton	Johnson, Pa.	Rose
Butler	Jones, Ala.	Rosenthal
Byron	Jones, N.C.	Rostenkowski
Carey, N.Y.	Jones, Okla.	Roybal
Carney, Ohio	Karth	Ryan
Carter	Kastenmeier	St Germain
Cederberg	Kazen	Sebellius
Chappell	King	Shipley
Chisholm	Koch	Shoup
Clancy	Landrum	Sikes
Clausen, Don H.	Latta	Sisk
Cleveland	Leggett	Slack
Collier	Lent	Smith, N.Y.
Collins, Tex.	Litton	Snyder
Conlan	Long, La.	Staggers
Corman	Lott	Stanton, J. William
Cotter	Lujan	Stark
Davis, Ga.	McCloskey	Steed
de la Garza	McCormack	Steiger, Ariz.
Delaney	McFall	Stephens
Dellums	McSpadden	Stratton
Devine	Madden	Stubblefield
Donohue	Mailliard	Stuckey
Downing	Martin, Nebr.	Symington
Dulski	Mathias, Calif.	Taylor, N.C.
Eckhardt	Mathis, Ga.	Teague, Calif.
Edwards, Ala.	Meeds	Teague, Tex.
Edwards, Calif.	Michel	Thompson, N.J.
Eilberg	Mills, Ark.	Thomson, Wis.
Eshleman	Minshall, Ohio	Thornton
Evins, Tenn.	Mizell	Tiernan
Fascell	Mollohan	Ullman
Findley	Moorhead, Pa.	Vanik
Fisher	Morgan	Veysey
Flowers	Moss	Vigorito
Foley	Murphy, N.Y.	Waldie
Forsythe	Natcher	Whalen
Fountain	Nedzi	White
Fulton	Nelsen	Whitehurst
Gaydos	Nichols	Widnall
Gettys	Nix	Wiggins
Ginn	Obey	Williams
Gonzalez	O'Neill	Wilson, Bob
Grasso	Owens	Wilson, Charles H., Calif.
Gray	Passman	Wilson, Charles, Tex.
Griffiths	Patman	Wright
Grover	Patten	Wydler
Gunter	Pepper	Wylie
Haley	Peyser	Yatron
Hanley	Pickle	Young, Ga.
Hanrahan	Podell	Zion
Hansen, Wash.	Preyer	

Abdnor	Froehlich	Murphy, Ill.
Abzug	Fuqua	Myers
Anderson, Calif.	Gaiamo	O'Brien
Anderson, Ill.	Gibbons	O'Hara
Annunzio	Gilman	Parris
Archer	Goldwater	Perkins
Armstrong	Goodling	Pettis
Ashbrook	Green, Oreg.	Pike
Badillo	Green, Pa.	Poage
Baker	Gross	Powell, Ohio
Bauman	Gude	Price, Tex.
Beard	Guyer	Pritchard
Bennett	Hamilton	Quie
Bergland	Hammerschmidt	Railsback
Biaggi	Hansen, Idaho	Randall
Biester	Hastings	Rarick
Bingham	Hechler, W.Va.	Rees
Blackburn	Heckler, Mass.	Regula
Blatnik	Heinz	Rinaldo
Brinkley	Helstoski	Robinson, Va.
Broomfield	Hillis	Robison, N.Y.
Brotzman	Hinshaw	Rodino
Brown, Mich.	Hogan	Roe
Buchanan	Holtzman	Roush
Burke, Fla.	Horton	Rousselot
Burleson, Tex.	Howard	Roy
Burlison, Mo.	Huber	Ruppe
Camp	Hudnut	Ruth
Casey, Tex.	Hungate	Sarasin
Chamberlain	Hutchinson	Sarbanes
Cochran	Jarman	Satterfield
Cohen	Johnson, Colo.	Scherle
Collins, Ill.	Jones, Tenn.	Schneebeli
Conable	Jordan	Schroeder
Conte	Kemp	Seiberling
Conyers	Ketchum	Shriver
Coughlin	Kluczynski	Shuster
Crane	Kyros	Skubitz
Cronin	Landgrebe	Smith, Iowa
Culver	Lehman	Spence
Daniel, Dan	Long, Md.	Stanton, James V.
Daniel, Robert W., Jr.	McClory	Steelman
Daniels, Dominick V.	McCollister	Steiger, Wis.
Danielson	McDade	Studds
Davis, S.C.	McEwen	Symms
Davis, Wis.	McKay	Talcott
Dellenback	McKinney	Thone
Denholm	Macdonald	Towell, Nev.
Dennis	Madigan	Treen
Derwinski	Mahon	Van Deerlin
Dickinson	Mallary	Vander Jagt
Dingell	Mann	Waggonner
Dorn	Maraziti	Wampler
Drinan	Martin, N.C.	Whitten
Duncan	Matsunaga	Winn
du Pont	Mayne	Wyman
Esch	Mazzoli	Yates
Evans, Colo.	Mezvinsky	Young, Alaska
Fish	Milford	Young, Fla.
Flood	Miller	Young, Ill.
Flynt	Minish	Young, S.C.
Ford, William D.	Mink	Young, Tex.
Fraser	Mitchell, N.Y.	Zablocki
Frelinghuysen	Moakley	Zwach
Frenzel	Moorhead, Calif.	
Frey	Mosher	

NOT VOTING—40

Bell	Hays	Rooney, N.Y.
Boggs	Hébert	Runnels
Bolling	Hunt	Sandman
Brademas	Ichord	Steele
Breaux	Johnson, Calif.	Stokes
Burke, Calif.	Keating	Sullivan
Clark	Kuykendall	Taylor, Mo.
Clawson, Del.	Melcher	Udall
Clay	Metcalf	Walsh
Dent	Mitchell, Md.	Ware
Diggs	Montgomery	Wolff
Erlenborn	Reid	Wyatt
Gubser	Riegle	
Hanna	Roncallo, N.Y.	

So the motion was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

AMENDMENT OFFERED BY MR. MOSS TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. Moss. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by Mr. Staggers.

The Clerk read as follows:

Amendment [Sec. 201] offered by Mr. Moss to the amendment in the nature of a substitute offered by Mr. Staggers: Page 47, line 10, insert "prior to such deadline result in, or contribute to, air pollutants which present a significant risk to public health and will not" after the word "not".

Page 47, line 18, insert "and with requirements of an applicable State plan to implement such standards" before the word "as". before the word "by".

Page 47, line 23, insert "or to assure continuing compliance with any requirements of an applicable State plan to implement such standards" before the phrase "a date".

Page 13, line 20, at the end of line 20 insert the word "all".

Mr. MURPHY of New York. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Missouri reserves a point of order on the amendment.

Mr. SYMINGTON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the purpose and effect of this amendment which has been offered on behalf of the gentleman from California (Mr. Moss), myself, the gentleman from New York (Mr. Hastings), and the gentleman from Pennsylvania (Mr. Heinz) is so as to reconcile the provisions of the bill before us not only with the original intent of the committee, but with the spirit of the Clean Air Act, that once proud legislation. In the words of the biblical plea:

Take not the spirit from us.

Mr. Chairman, this amendment does not affect emergency initiatives. It does not stand in the way of coal conversion. Nor does it prevent the granting of variances or suspensions permitting the burning of dirtier fuels this winter. What it does do is distinguish between short- and long-term suspensions by prohibiting the latter when they produce air pollutants that present a significant risk to public health.

Mr. Chairman, certain legendary heroines did take poison to avoid other forms of inconvenience. As applied to our situation, I doubt the device makes up in nobility what it lacks in resourcefulness. If we would but remember it was our mindless addiction to the cheapest available combustibles that led first to a cloud over America's health, then coughing, bronchial statistics, books, articles, hearings, and finally the Clean Air Act. If we would bear that in mind we would not surrender now to the impulses that took us down that dreary road—to be numbered among those who cannot remember history and are, therefore, doomed to repeat it.

This amendment seeks to preserve national primary ambient air standards, so welcome to the breathing American, by far the majority, in such teeming concentrations of humanity as New York, Chicago, Los Angeles, Birmingham, Atlanta, Cincinnati, Philadelphia, and even St. Louis.

This amendment also recognizes the continuing responsibility of State governments and the legitimacy of State implemented plans. Should this day's work stand as a confession of error in that concept, of a lack of confidence in the know-how to perfect it?

We can do it. We can do it without question, and without injury.

Mr. HASTINGS. Mr. Chairman, I rise in strong support of this measure. I must say that this amendment accomplishes what was the intent when it was first introduced by the gentleman from Missouri (Mr. Symington) in the full committee, as amended by myself.

This will allow for individual stationary polluters suspension of air quality standards, but at the same time, guarantees that the health of the public will be protected. I think it is a compromise between each position as to suspension of standards and protection of public health.

Mr. Chairman, I strongly urge support for this amendment.

Mr. Chairman, I notice in the language as reported that it refers to short term and long term. One of the things I have been struggling with is what do we do with the long term? Do we just leave them hanging there? Is there any assurance something is going to be done for the long term? I agree with what the author of the amendment has suggested as well as the gentleman from Missouri (Mr. Symington). But I am trying to get some clarification, and I have been trying for some days to get some clarification. Is the long term provided for where that is so vitally needed?

Mr. SYMINGTON. Mr. Chairman, I thank the gentleman for yielding to me.

May I say that the gentleman from Minnesota is correct that both short term and long term are included in the amendment, but really the amendment permits a suspension for the short term, whatever is needed to meet the crisis.

If there is to be a long-term suspension, it has to be dependent upon a finding of the Administrator that there is no significant risk to health.

Mr. HEINZ. Mr. Chairman, I should like to commend the gentleman from Missouri on his amendment, and I support the amendment very strongly. I also would like to associate myself with the remarks of the gentleman from New York (Mr. Hastings).

The CHAIRMAN. The gentleman from New York has reserved a point of order.

POINT OF ORDER

Mr. MURPHY of New York. Mr. Chairman, the very first amendment adopted by the Committee of the Whole on this legislation is in total conflict with this amendment which amends an amendment already adopted. That is the point of the point of order.

Mr. SYMINGTON. Mr. Chairman, there is nothing in the amendment which we have proposed which changes a single word in the gentleman's amendment. There are no deletions. We have amended the same section, but I do not think there is anything in the rules that would prevent that.

The CHAIRMAN (Mr. Bolling). The Chair has had an opportunity to examine the amendments. The amendment offered by the gentleman from New York (Mr. Murphy). The fact that it may be inconsistent is not a matter for the Chair to rule on. The Chair overrules the point of order.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the two amendments say in one specific aspect that we want to maintain the national ambient air quality standards in every air shed, particularly in the air sheds over our cities where air in the past has been very poor. The difference in the amendments is this: We have State plans, and we have some States who will not change their air quality plans. We have an Administrator created under this act, and the Administrator may require certain specific types of control on powerplants.

We also have an Administrator of EPA who might be making recommendations as to the type of controls on stationary fuel sources.

My amendment does this. It permits the Administrator to authorize noncontinuous emission standards—and when I say continuous emission standards, these are the heavy scrubbers that will be on these machines for 40 years that cost from 540 to hundreds of millions of dollars. They say we will permit intermittent or alternate types of mechanisms on our powerplants but at the same time that we must preserve ambient air quality.

The fact is that for the limited period of this legislation—we hope this energy shortage is short-lived—the Symington amendment makes no ability to change the State plans. In effect, it will mandate heavy scrubbers, and extraordinary expenditures, particularly in the areas where we can put them at this time, and I would urge the defeat of the Symington language.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was rejected.

Before the Chair recognizes any other Member, with the indulgence of the committee, the Chair would like to state the situation that confronts the Committee and its members. The Committee has limited all time on the pending amendment and all amendments thereto to 6:30 p.m. That leaves us in a situation where we have many amendments pending. There may well be at 6:30 a large number of amend-

ments which have not been offered, because the Chair feels he must proceed in the normal fashion.

Those amendments which have not been offered will still be in order to be offered, but there will be no debate on them, unless the author of the amendments as printed in the Record under the rule an amendment, in which event he is entitled to 5 minutes.

The Chair does not believe in a chairman speaking from the chair except to assist the committee and even then briefly. The Chair would like to suggest to the committee and its members that it will require a very great deal of very understanding cooperation and self-discipline on the part of the members of the Committee for us to have an orderly procedure and the Chair would beg the cooperation of the members of the Committee on Interstate and Foreign Commerce and all other Members to attempt to give all Members a chance to be heard on their amendments.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do this to try to find some accommodation so that every person who has an amendment will be able to speak on it if possible. I would like to suggest to the Members that we find out how many amendments there are at the desk and divide the time between now and 6:30 so that every person who has an amendment will have an equal time for his amendment. If this can be done I would like to make an additional suggestion, that the committee alternate with those outside the committee to offer amendments, so we would take them one at a time, one from the committee members and one from outside the committee in order to be fair. I do not know how this can be done.

The CHAIRMAN. The Chair would have to say to the gentleman from West Virginia, whose intentions he knows are the best, that if we would do that we would not be taking into account whatever time was taken up in voting on whatever additional amendments might be offered.

The Chair is constrained to hope that the gentleman will not insist on that procedure.

Mr. STAGGERS. Mr. Chairman, in lieu of that I would say to every man who speaks on an amendment that I suggest he limit his time to 2 minutes and that would give everybody a chance to speak on his amendment.

The CHAIRMAN. That is in line with the hope the Chairman was expressing in a rather unusual way a little earlier.

Mr. STAGGERS. That is what I would suggest and if it gets out of hand then a little later I would ask unanimous consent or move to limit time. I would like to go on for 45 minutes and have everybody get his amendments spoken to, and if it is not going that way then I would ask for a limitation of time so that every Member would have some opportunity to speak.

PARLIAMENTARY INQUIRY

Mr. O'NEILL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. O'NEILL. How many amendments have been printed in the Record?

The CHAIRMAN. The Chair is not absolutely sure, but he thinks approximately five.

Mr. O'NEILL. Then, Mr. Chairman, because so many Members have been inquiring about the time, each one of these people is entitled to his 5 minutes, and debate is to be completed at 6:30, and then there is a great possibility that on amendments already passed, rollcall votes may be asked on them, plus the fact that there will be an opportunity to recommit, and then final passage, so despite the fact that all debate will end at 6:30, it appears the Congress will be continuing on this matter until, I would say, between 8:30 and 9 o'clock this evening.

I merely state this for the information of the Members.

The CHAIRMAN. The Chair would like to add, also, that on any amendment placed in the Record, he was in error, that there would be not 5 minutes, but 10 minutes, 5 minutes for the author and 5 for someone to speak against the amendment, so that would be 10 minutes.

Mr. MATSUNAGA. Mr. Chairman, I wish at the outset to congratulate the gentleman from West Virginia and members of his committee for their herculean efforts in trying to enact appropriate legislation to cope with our Nation's energy crisis.

For the purpose of establishing legislative history, I ask the distinguished chairman of the committee (Mr. Staggers) for his attention.

The distinguished chairman, Mr. Staggers, will recall that I raised a question about the intended impact on the visitor industry during floor consideration of the emergency fuel allocation bill, now enacted into law, and that he responded that all vehicles, public or private, which serve the visitor industry were to be considered part of the so-called public services which were to be maintained at the highest priority under any allocation program.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Matsunaga was allowed to proceed for an additional 2 minutes.)

Mr. MATSUNAGA. Mr. Chairman, in **section 103** of the bill under consideration, it is provided in part as follows:

A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

And in the committee report accompanying H.R. 11450, on page 27, it is stated:

... there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as recreational activities or various aspects of general aviation), if to do so would result in significant unemployment. There are, of course, many areas in this Nation where recreation and tourism provide the base of the local economy.

My question to the gentleman is this: Am I correct in my understanding that by the provisions of **section 103** and that part of the committee report which I have just quoted, it is legislatively intended that the term "vital services" shall include transportation services, both public and private, which are necessary to maintain the tourist industry in areas where tourism is a vital part of the local economy, as in Hawaii?

Mr. STAGGERS. Mr. Chairman, I think we have answered that question before. It is answered in the report and the answer is "Yes."

Mr. BROWN of Ohio. Mr. Chairman, I take this moment to ask the attention of the chairman of the committee for the purpose of legislative history. I wish to clarify a point. The proposal now before us, in part, amends the priorities section of the Emergency Petroleum Allocation Act.¹ That act provides that the "Maintenance of agricultural operations—and services directly related thereto" should be among the priority users of fuel.²

Precedent in previous fuel allocation programs³ has established that among the priority agricultural-related users of fuel are essential food supply activities such as the manufacture and transportation of cans, bottles, wraps and other food containers and other activities.

Such a priority, to me, only makes sense since the fuel allocated to produce and process food would be totally wasted if there are no containers in which to package the product. For the purpose of legislative history, then, I wish to establish that it is the intent of Congress that activities essential to the maintenance of an adequate and reliable food supply are indeed considered part of the agricultural-related allocation priorities.

Mr. STAGGERS. That is the intention of the Committee.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. HEINZ TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. HEINZ. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

POINT OF ORDER

Mr. PRICE of Texas. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. PRICE of Texas. Mr. Chairman, I thought the agreement was to alternate amendments between members of the Committee and members who are not on the Committee. This is another example of what we have here today.

Mr. HEINZ. Mr. Chairman, I would be happy to withdraw my amendment.

The CHAIRMAN. Permit the Chair to say in respect to the point of order, that the procedure mentioned by the gentleman from Texas was discussed but not agreed to. The Chair had hoped that procedure would be followed.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment [Sec. 103(c)] offered by Mr. Heinz to the amendment in the nature of a substitute offered by Mr. Staggers, Page 8, after line 18, insert the following new subsection: (e) Section 4 of the Emergency Petroleum Al-

¹ Public Law 93-159.

² Sec. 4(b) (1) (C).

³ The fuel allocation program of World War II accorded the food industry an A-1 priority which was assignable to their suppliers under such a program an essential food supply activity, whether it be cans or conveyor belts or transportation, received priority allocation in order to keep the food supply system functioning.

location Act of 1973 is amended by inserting at the end thereof the following new subsections:

"(1) (1) The President shall transmit any rule (other than any technical or clerical amendments) which amends the regulation (promulgated pursuant to subsection (a) of this section) with respect to end-use allocation authorized under subsection (h) of this section.

"(2) Any such rule with respect to end-use allocation shall, for purposes of subsections (m) and (n) of this section, be treated as an energy action and shall take effect only if such actions are not disapproved by either House of Congress as provided in subsections (m) and (n) of this section.

"(m) DISAPPROVAL OF CONGRESS.—

"(1) For purposes of this subsection, the term 'energy action' means any rule under subsection (1) or repeal of such rule.

"(2) The President shall transmit any energy action (hearing an identification number) to the Congress. The President shall have such action delivered to both Houses on the same day and to each House while it is in session.

"(3) Except as otherwise provided in paragraph (4) of this subsection, an energy action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that the House does not favor the energy action.

"(4) For the purpose of subsection (1) of this section—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-day period.

"(5) Under provisions contained in an energy action, a provision of the plan may be effective at a time later than the date on which the action otherwise is effective.

"(6) An energy action which is effective shall be printed in the Federal Register.

"(n) DISAPPROVAL PROCEDURE.—

"(1) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2) For the purpose of this subsection, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the — does not favor the energy action numbered — transmitted to Congress by the President on , 19 ', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

"(3) A resolution with respect to an energy action shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives as the case may be.

"(4) (A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the energy action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than 1 hour, to be divided equally

between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

“(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy action, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

“(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy action, and motions to proceed to the consideration of other business, shall be decided without debate.

“(B) Appeals from decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy action shall be decided without debate.”

Mr. HEINZ (during the reading). Mr. Chairman, I ask unanimous consent that the reading of the amendment be dispensed with and that it be printed in the Record.

Mr. ECKHARDT. Mr. Chairman, I reserve a point of order.

Mr. ADAMS. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that the amendment be considered as read?

Mr. HEINZ. I do, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, and if this will not waive my reservation I shall not object—

The CHAIRMAN. It just dispenses with the reading. It does not waive the gentleman's reservation.

Mr. GROSS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read the amendment.

The Clerk continued to read the amendment.

Mr. HEINZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, is the amendment at this desk?

Mr. HEINZ. Yes, Mr. Chairman, the amendment was made available to that desk 3 days ago.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. YATES. I object, Mr. Chairman. I believe the House should know what the amendment says.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk continued to read the amendment.

Mr. HEINZ (during the reading). Mr. Chairman, it is not my desire to prevent any Member in the House from finding out what is in this six-page amendment, but I am seeking a method of permitting the Members to understand the amendment and yet not be forced to go through the reading of the entire amendment.

Is there a procedure, Mr. Chairman, under which I might explain the amendment?

The CHAIRMAN. The Chair will inform the gentleman that the Clerk must complete the reporting of the amendment unless unanimous consent is given to suspend the reading.

Mr. HEINZ. Mr. Chairman, under the condition that I would like the chance to explain the amendment, I will again repeat my unanimous-consent request.

Mr. Chairman, I ask unanimous consent that the amendment may be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. YATES. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue the reading of the amendment.

The Clerk continued to read the amendment.

PARLIAMENTARY INQUIRY

Mr. ECKHARDT (during the reading). Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ECKHARDT. Mr. Chairman, would it be in order for me to press my point of order at this time?

The CHAIRMAN. Did the Chair understand the gentleman to say, to press his point of order?

Mr. ECKHARDT. Yes, Mr. Chairman.

Would it be in order for me to urge my point of order at this time?

The CHAIRMAN. The Chair feels that the reading of the amendment should be concluded.

Mr. ECKHARDT. I thank the Chairman.

The CHAIRMAN. The Clerk will continue to read the amendment.

The Clerk continued to read the amendment.

Mr. BROYHILL of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed at this point in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. GROSS. Mr. Chairman, I object.

POINT OF ORDER

Mr. ECKHARDT. Mr. Chairman, I insist on my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ECKHARDT. Mr. Chairman, my point of order is that the amendment is not germane to the amendment in the nature of a substitute. Further, the amendment is not germane to the material of the bill.

I should further like to argue on the point of order if I may be heard at this time.

The CHAIRMAN. The gentleman will proceed.

Mr. ECKHARDT. Mr. Chairman, what the amendment purports to do is create additional machinery with respect to the allocation section of the bill which is covered in **section 103** of that bill so as to provide that the powers which are to be exercised in allocation, including end use allocation, shall be subject to presentation to the Congress during a 15 day period in which, if they are not vetoed by one or the other House, such provisions may be canceled by having been denied by the two Houses.

There is nothing in the original bill or in the amendment that provides for any procedure by which the matter shall be resubmitted to the Congress. There is nothing in the amendment in the nature of a substitute that has any such procedure in it.

The amendment offered here provides an extensive amendment of the procedures of both the House and Senate with respect to the manner in which this is accomplished.

I should like to point out to the Chair that this is not a small change in policy or in law but an extremely large one. What it purports to do, in effect, is to change the role of the Presidency and that of the Congress and to afford a special procedure by which this bill reserves to the Congress the administrative position, a position in which as a condition subsequent to the passage of this bill this bill may require a second look at the entire question and a determination on the question of policy by the Congress.

The major thrust of my point of order does not go to any question of constitutionality.

It indicates too the fact that the matter contained herein so sweepingly alters the procedures of the House, and the work to accommodate itself to this peculiar and unusual problem, that it is far beyond the scope of any provision in the bill. It does not in a minor manner change the bill, but it changes it in an extremely substantial manner because it calls upon the House to make a deep and complete policy determination with respect to the question of allocation at a time subsequent to the passage of the bill, and give that policy determination the effect of law as a condition subsequent to its particular enactment.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. Heinz) desire to be heard on the point of order?

Mr. HEINZ. I do, Mr. Chairman.

Mr. Chairman, the gentleman from Texas contends on the one hand that my amendment is not constitutional, and on the other that it is not germane to the bill.

On the first point I would like to indicate, Mr. Chairman, that there are already on the statute books two laws, the War Powers Act and the Procedure for Approving Executive Reorganizations. They use the same procedure for the two items I mentioned. Therefore I do not feel that the point of constitutionality can stand the test.

Second, the gentleman from Texas argues that my amendment and the disapproval portion thereof is not germane to the bill. Were this the case it would seem to me inconsistent, Mr. Chairman, because we would not have had, as we did 2 days ago, a vote on the Broyhill amendment which included the exact same procedures as exist in my amendment.

Admittedly, **section 105** is not **section 103**, but, nonetheless, both amendments were offered to the amendment in the nature of a substitute, H.R. 11882. I do not believe, therefore, Mr. Chairman, that the point of order has merit.

Mr. ECKHARDT. Mr. Chairman, I should like to urge one other point aside from the germaneness question, and that is that the amendment is out of order because it seeks to amend the rules of the House.

Mr. HEINZ. Mr. Chairman, if I may be heard further, I just do not think that the gentleman from Texas is correct. What is in this amendment is simply no different from writing into the bill, which we could do at any time, for any section, a provision which might say "notwithstanding anything in **section 103** or any other section, the executive branch has to come back to the Congress for enactment or approval or determination, or anything."

The CHAIRMAN (Mr. Bolling). The Chair is prepared to rule.

The gentleman from Texas (Mr. Eckhardt) makes a very interesting and strong argument. The Chair in its ruling is persuaded that the question is a narrow question. The Chair does not rule on the constitutional questions raised in this argument; but there are two aspects of the matter that the Chair takes into consideration in its decision. One, which the Chair believes to be the lesser one, is the fact that in the original bill there is a similar provision which in turn was offered as an amendment to the amendment in the nature of a substitute. But the Chair relies primarily on the fact that the amendment offered by the gentleman from Pennsylvania (Mr. Heinz) is in fact an amendment to **section 4** of Public Law 93-159, the Emergency Petroleum Allocation Act which, in a different manner, does provide for a procedure whereby the President shall make submissions to the Congress. And whereby either House may disapprove of such submissions.

Therefore the Chair overrules the point of order.

The Chair recognizes the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Chairman, I am offering this amendment to **section 103**, which is the section that is a series of amendments to the Emergency Petroleum Allocation Act, because of the tremendously high degree of concern that I have regarding the fact that we are granting to the executive branch, under **section 103** as it now stands, an enormous and possibly unprecedented grant of authority. Whether we define "end-use allocation to individual consumers" as end-use allocation, or rationing, each to his own, this bill, in my view, gives the President of the United States the totally unrestricted power to ration gasoline.

What my amendment seeks to do is to give the Congress a chance to say "no" to a rationing proposal that we do not want.

The other day when the gentleman from North Carolina (Mr. Broyhill) offered his amendment, the shoe was essentially on the other foot. The Broyhill amendment attempted to grant additional power to the executive branch, where none existed under the original **section 105**, using essentially the same procedure as I propose in this amendment.

The difference is that **section 103**, as it stands, confers nearly limitless powers to the White House, and what I am attempting to do here today is to restrain the grant of authority in **section 103**.

I would like to recall Mr. Chairman, that when we debated the Broyhill amendment, it was pointed out that there were entire

industries being put out of business under the Emergency Petroleum Allocation Act as it now stands. Recreation, aircraft, boats, travel were some of the things that were mentioned. **Section 103**, if unchanged, grants the Executive ever more opportunity to make unfair unilateral decisions that could affect the economy of any of our congressional districts.

It also seems to me that the way the bill is drawn, we tend to rely solely on the rationing authority and, therefore, on rationing as a means of meeting this Nation's energy crisis. We have made it relatively difficult to take action for conservation purposes the way we have treated other sections of the bill. Whether or not we are for rationing in principle, it makes no sense to rely on rationing as our sole weapon in dealing with the energy crisis. But if ration we must, let us have the chance to say whether we think the plan is satisfactory. This is what my amendment is all about.

Mr. Chairman, do I understand that the thrust of the amendment offered by the gentleman in the well is to state that before gasoline rationing can become effective, we must have something to say about it here, and that any such plan that may be submitted by the Executive will be subject to our veto? Is that correct?

Mr. HEINZ. The gentleman is entirely correct.

Mr. DENNIS. Mr. Chairman, I am certainly in support of the gentleman's effort, and I want to commend him for it. The only thing is it should go a little further and say it cannot happen unless we affirmatively do it in the first place; but it is a great improvement over the weasel words and the back-door approach taken in the committee bill.

Mr. LATTA. I take this time to ask the gentleman to explain a little bit further how this would operate. I am in favor of control on the power to ration. I mentioned when I was handling the rule that I would offer a similar amendment. I would say before they could implement a rationing plan, it must first be approved by the Congress. What the gentleman is saying we will have an opportunity to veto it? I realize, and the gentleman well realizes, that a resolution to veto could be kept in the committee and never come out so we would have an opportunity to vote on it.

Mr. HEINZ. May I respond to the gentleman from Ohio by saying as long as there is one person in the entire Congress who is opposed to the rationing plan submitted, the natural of the highly privileged motion that is authorized under my amendment would make it mandatory at the very least that the House vote on whether or not they will consider the disapproval motion, because it is a highly privileged motion to discharge a committee. Immediately after a discharge motion has carried, if it is carried, it is then in order to consider whether or not we will disapprove the end-use allocation procedure.

Mr. LATTA. I want to thank the gentleman for his explanation. I think it is most important that any Member have the right to force a vote.

Mr. HEINZ. Just one Member of the House can bring it to the floor for disapproval.

Mr. GROSS. Is a vote required?

Mr. HEINZ. The gentleman asks if a vote is required. A vote is required only if one Member of the House seeks his right under this procedure to bring it up for a vote, and he may do so.

Mr. WYMAN. Mr. Chairman, I should like to compliment the gentleman on his amendment and express my support for it. I think it is necessary that Congress should have a look at any rationing system. I am one of the Members here who hopes that we never have rationing in this country.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words. I do this, Mr. Chairman, in order to get a time limit. I would ask unanimous consent that all debate on this amendment cease in 5 minutes.

Mr. KETCHUM. Mr. Chairman, I reserve the right to object.

Mr. LATTI. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ECKHARDT. Mr. Chairman, I rise to speak against the amendment.

Mr. Chairman, the power to ration will exist under three acts if this act is passed: First, the Economic Stabilization Act; second, the Defense Production Act; and third, this Energy Act itself. So the purpose that the gentleman proposes here is not actually accomplished unless he should include in his amendment a requirement that that power be closed off in all three acts. I suggest that he has not closed the extensive authority of the Presidency in any way.

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. The gentleman had not yielded to me and my time is very short but I will yield to the gentleman very briefly.

Mr. HEINZ. I apologize for not yielding to the gentleman but there were so many who were asking me to yield. I thank the gentleman for yielding.

Mr. Chairman, I just want to say the gentleman is correct and I do not amend the Economic Stabilization Act nor the Defense Production Act because I do not think that would have been germane.

Mr. ECKHARDT. I see. So the only action that is in fact limited is the one in which we most carefully protect the interests of the public with respect to limitation on any power to restrict any end use allocation. In this bill we provide for an agency which exercises the authority—not the President. We provide that the head of that agency be approved by the Senate. We provide that the agency head be removable only for cause. We provide for administrative procedure and judicial review. This amendment says that the agency must present its end use allocation plan to Congress for disapproval. If Congress fails to disapprove in 15 days, the end use allocation plan goes into effect.

If the gentleman really wants to reserve the power to this body he should remove from the act altogether rationing authority. All this does is provide a buckpassing procedure. This is an amendment by which executive power is exercised, a short period of perusal is given to both Houses; and, in the event that the action is not disapproved by one House of Congress, it becomes final and determinative—and how can we take considered action in 15 days? Look at the difficulty we have had in drawing up this bill in about that period of time.

The gentleman is calling for a procedure which is nothing in the world but buckpassing. The executive branch would place the blame on Congress for not having reversed rationing. We have no power to amend. We have no time for hearing. We have no opportunity to adjust. We are called upon to ratify a decision concerning which we have

not the authority nor the time nor the machinery to determine the merits of the issues involved.

Mr. HEINZ. I would like to speak to those points the gentleman has made because I know the gentleman is a serious student of the Constitution. I would like to point out to the Members that first of all his amendment requires transmittal; second, it permits for study by the committee that has appropriate legislative jurisdiction; and third, it provides for special study or action by the committee not being forthcoming, then a highly preferential motion to the floor on which there is 1 hour of debate whether to discharge the committee.

And fourth, if I may finish my last point, it provides in the event the discharge motion carries for up to 10 hours of debate, which granted we have exceeded here in this bill on the floor of the House.

Mr. ECKHARDT. I agree the bill provides for all these things, but the bill does not provide for an orderly operation of this body through which we determine legislative policy for the people of the United States. If we have not completed our action within the 15-day period provided in the bill the failure to have completed it gives absolute legislative authority to the administrative agency.

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I do not yield further. The gentleman has taken nearly half my time.

The thing I am pointing out here is this reversal of roles by which the administrative body legislates and the legislation goes into effect unless vetoed by Congress. This is a process that if not used in extremely limited ways can destroy the traditional position of Congress, its authority and processes, to a greater extent than any other device that has ever been invented.

I point out to the body that where we have used this device, we have used it for one of two types of processes. We have used it in the Reorganization Act for the purpose of internal housekeeping to require that the decision come back to this House so that we may determine whether it is provident and viable with respect to our own internal operations.

The other application of this so-called legislative veto is in the case where we merely preserve to ourselves in the War Powers Act the right to state by concurrent resolution that we have not given congressional authority to the President to make war.

Mr. LATTA. Mr. Chairman, I rise in support of this amendment, even though I would have preferred the direct approach that I indicated that I would propose to the House when we were debating the rule. I would prefer a very simple amendment to **subsection 6**, which read as follows:

Provided, however, any plan formulated under this subsection must first be submitted to and approved by the Congress before implementation.

Not being a member of the committee, and under the parliamentary situation, the gentleman from Pennsylvania was recognized before I could offer my amendment.

I appreciate what the gentleman is attempting. As indicated by our earlier colloquy, the end result, I believe, would be the same. The gentleman indicated that one Member of the House could force a vote on any rationing plan. It would not have to go back to the committee.

If one Member of the House objected to the plan brought forth by the administration, we could have an opportunity to vote on it.

As an alternative to my approach, I accept it. I think the American people will be watching what this body does in this area, particularly since it will affect everyone that drives an automobile or rides in an automobile.

Certainly I cannot accept the statements just made by the gentleman from Texas that the procedure of the gentleman from Pennsylvania is buckpassing. Buckpassing is what the committee bill does as it now stands. The bill requires that all other energy plans come back to Congress for approval. Why not the matter of gasoline rationing? The rationing in the bill refers to something like "end use allocation of gasoline." We know this means rationing. This is real buckpassing, if you please, and I am opposed to it as well as gasoline rationing.

I think we ought to do as the gentleman suggests, give the Congress of the United States, the people's Representatives, an opportunity to veto any rationing plan proposed by the bureaucrats.

Voluntary rationing is working. I do not believe that we need these involuntary methods at this time. I have in my hand the UPI story of yesterday where Mr. Simon said:

The nation in the 3 weeks ending November 30th was able to cut its use of crude oil by 1.1 million barrels a day.

I say, this is a good track record for the American people. They understand this crisis and they are responding. We, as the representatives of the people, ought to give them a chance to respond further. By adopting the gentleman's amendment we will be doing exactly that by heading off gasoline rationing brought about by bureaucratic urging.

Mr. WYMAN. Mr. Chairman, does not something also depend on what kind of rationing system they come up with? I know the rationing system in World War II just did not work at all. We do not want to have any black markets in this country in peacetime in gasoline supplies, and it is going to happen if they do not come up with the right kind of system which should be first approved by this Congress.

Mr. LATTA. Mr. Chairman, I could not agree more with the gentleman. I do not think we ought to turn this over to some bureaucrat or czar downtown without having an opportunity to vote on it.

Mr. KAZEN. Mr. Chairman, on the other hand, all that this Congress could do is either approve of or disapprove of the entire plan. If there was something in the plan we wanted to change, we could not do that under the procedure provided in this amendment, could we?

Mr. LATTA. Mr. Chairman, I welcome the opportunity to vote rationing down in toto at any time.

If I disagree with 90 percent of a rationing plan and agree with 10 percent of it, I will take the 90 percent and vote accordingly.

Mr. HEINZ. Mr. Chairman, the way the bill is written, in section 103 we will not have anything to say about anything. The President or Administrator can promulgate a regulation and we will not be able to do a single thing about it except to go through the complete legislative process to reverse the rulemaking.

At least, with the amendment, we have a chance to say "No" to something that will not work or is a bad idea.

Mr. WYMAN. Mr. Chairman, there is too much power being given to the Executive under this bill anyway. If we have the gentleman's amendment adopted, we can trade out with the executive branch, if we need to, in seeing that a kind of rationing system which is more advisable is fully implemented. Personally I hope this country undertakes a rationing system only as a last resort. It is bound to be a can of worms whatever may be proposed.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would again like to try to find out if we could not come to some agreement on the time. I think most Members know what the amendment is about and how they are going to vote on it. In any event, they can revise and extend their remarks.

Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous consent request was made will be recognized for three-quarters of a minute each.

Mr. HECHLER of West Virginia. Mr. Chairman, as one who believes very strongly in rationing as a fair system of allocation of gasoline, I feel that this amendment is an unfortunate amendment. It does not mandate rationing; it delegates responsibility to the Administrator with the proviso that Congress can come in at the last minute to veto rationing. Also, the provisions of the bill as it now stands give far too much power to an Administrator like William Simon, who has publicly announced that rationing will only come as a last resort. Both Mr. Simon, the President, Secretary Shultz and other officials are on record against rationing. They feel that the consumer should be socked with higher taxes on gasoline and higher prices.

I feel very strongly that rationing is far preferable to the raising of the price of gasoline, which will bear the hardest on the average man and woman in this Nation. The rich can afford high gasoline prices, but the poor and middle class must reduce their expenditures for food, clothing, and medical care in order to get the essential gasoline they need to go to and from work. I feel it is very unfortunate that we are faced with this alternative, and I propose to vote against the amendment because I do not believe that this approach solves the problem which this committee faces. We ought to have the courage to mandate rationing by a vote in Congress, in order to protect the average working man and woman.

Mr. KETCHUM. Mr. Chairman, I rise in support of this amendment.

It is unfortunate that when we come to this point, we get the least amount of time for debate on what is perhaps the most important amendment of this bill.

I have heard for 3 days now the word "courage" on this floor, emanating from both sides of the aisle—Members saying that we must have courage.

If we do not vote for this amendment, it certainly is a demonstration on the part of this House that we lack the guts to make a determination and we are willing to relegate that to an Administrator who is not subject to any constituency.

I would remind the Members in this Chamber of the remarks made by the gentleman from Texas yesterday relative to the mandatory allocation program regarding the middle distillate program. I would suggest to any of the Members who have not had problems with that middle distillate program that someone picked a magic day on which to start and did not even have the forms so people could apply, that it would be in order to contact the members of the California delegation and the members of the Texas delegation to find out how their people are faring under an allocation program that some bureaucrat dreamed up.

Mr. Chairman, it seems to me that if we really are interested in an allocation program that is fair, we should vote for this amendment.

Mr. HEINZ. Mr. Chairman, I would just like to make one point in order to answer the gentleman from West Virginia (Mr. Hechler).

I do not think the question that we are voting on is whether we are for or against rationing. The question we are voting on, in my view, is what kind of rationing we want to have.

Now, at the present time, the administration could devise a rationing system based on the number of people in a family, the number of automobiles in a family, the number of drivers' licenses in a family, or even on family income.

Mr. Chairman, I think the gentleman from West Virginia would like to have a chance to say "no" to some of those alternatives.

Mr. HECHLER of West Virginia. Mr. Chairman, does the gentleman from Pennsylvania really, honestly believe that, to protect the consumers of this Nation, Mr. Simon and the new Energy Administration will ever come to the point of recommending rationing?

Mr. HEINZ. Mr. Chairman, I would say this to the gentleman: There is nothing in my amendment that prohibits, restrains, or discourages Mr. Simon or the new Energy Administration from so doing.

Since my amendment does nothing to inhibit executive branch action on rationing, I do not understand the gentleman's objection.

Mr. STAGGERS. Mr. Chairman, I simply wish to state that I oppose the amendment offered by the gentleman from Pennsylvania (Mr. Heinz).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Heinz) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. [Sec. 103(e).]

PREFERENTIAL MOTION OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer a preferential motion.

Mr. SCHERLE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.
 One hundred twelve Members are present, a quorum.
 The Clerk will report the preferential motion.
 The Clerk read as follows:

Mr. Gross moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. GROSS. Mr. Chairman, on Wednesday, December 12, when the outrageous rule was before the House making this badly prepared bill in order, there was considerable discussion by the Members with respect to procedure for debate and other consideration.

Earlier this afternoon I sought to remind the gentleman from West Virginia (Mr. Staggers) of his assurances on that day with respect to the consideration of the bill.

I take this time before the 6:30 deadline to read into the Record what was said on that day as recorded at page 11180 of the Congressional Record. Mr. Anderson of Illinois was in charge of the rule on the minority side. He yielded to Mr. Myers of Indiana who said:

... has there been any agreement that there will not be any limitation of time thereby prohibiting Members from having the opportunity to discuss and thoroughly understand the bill and all amendments that will be offered?

Mr. ANDERSON of Illinois. Mr. Speaker, the gentleman from Indiana raises an important question, and I would be glad to yield at this point to the distinguished chairman of the House Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. Staggers) to give this House assurances that adequate time will be permitted to debate the bill and all amendments thereto.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman from Illinois for yielding to me. I must say that I cannot speak for all members of my committee, nor can I speak for all of the Members of this House, but I would say I would welcome—and I think there should be—complete and full discussion on all of the issues, and that I would try to proceed toward that end.

Mr. GROSS. Yet the distinguished chairman of the House Committee on Interstate and Foreign Commerce only a few moments ago, when there were 65 amendments at the desk, voted to cut off all debate at 6:30 this evening.

I simply want the record to show what has taken place with respect to the outrageous consideration of this legislative monstrosity.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

I would like to say to the gentleman from Iowa that the situation has certainly changed after 3 days.

I did not offer the motion that was accepted. It was offered on this side of the aisle. I thought the time had come when perhaps the House was getting tired of a lot of arguments going on and the time had come to vote on the bill.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Iowa (Mr. Gross).

The question was taken; and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

Mr. ROUSSELOT. Mr. Chairman, I demand a recorded vote.
 A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 56, noes 335, not voting 41, as follows:

[Roll No. 671]

AYES—56

Abzug	Hechler, W. Va.	Rangel
Armstrong	Holt	Rarick
Bauman	Howard	Rousselot
Beard	Hutchinson	Ryan
Blackburn	Jarman	Scherle
Burleson, Tex.	Johnson, Colo.	Shuster
Conlan	Jones, Okla.	Spence
Conyers	Ketchum	Stelman
Crane	King	Steiger, Ariz.
Davis, S.C.	Kuykendall	Symms
Dennis	Landrum	Teague, Tex.
Dorn	Lott	Towell, Nev.
Duncan	Lujan	Treen
Evins, Tenn.	Mink	Waggonner
Goldwater	Moorhead, Calif.	Wolff
Griffiths	Myers	Young, Alaska
Gross	Parris	Young, Fla.
Hanna	Powell, Ohio	Young, S.C.
Harrington	Price, Tex.	

NOES—335

Abdnor	Brown, Mich.	Daniel, Dan
Adams	Brown, Ohio	Daniel, Robert W., Jr.
Addabbo	Broyhill, N.C.	Daniels, Dominick V.
Alexander	Broyhill, Va.	Danielson
Anderson, Calif.	Buchanan	Davis, Ga.
Anderson, Ill.	Burgener	Davis, Wis.
Andrews, N.C.	Burke, Fla.	de la Garza
Andrews, N. Dak.	Burke, Mass.	Delaney
Annunzio	Burlison, Mo.	Dellenback
Archer	Burton	Dellums
Arends	Butler	Denholm
Ashbrook	Byron	Derwinski
Ashley	Camp	Devine
Aspin	Carey, N.Y.	Dickinson
Badillo	Carney, Ohio	Dingell
Bafalis	Carter	Donohue
Baker	Casey, Tex.	Downing
Barrett	Cederberg	Drinan
Bennett	Chamberlain	Dulski
Bergland	Chappell	du Pont
Revill	Chisholm	Eckhardt
Biaggi	Clancy	Edwards, Ala.
Biester	Clausen.	Edwards, Calif.
Bingham	Don H.	Eilberg
Blatnik	Cleveland	Esch
Boggs	Cochran	Eshleman
Boland	Cohen	Evans, Colo.
Bowen	Collier	Fascell
Brasco	Collins, Ill.	Findley
Bray	Collins, Tex.	Fish
Breckinridge	Conable	Fisher
Brinkley	Conte	Flood
Brooks	Corman	Flowers
Broomfield	Cotter	Flynt
Brozman	Coughlin	Foley
Brown, Calif.	Cronin	Ford, William D.
	Culver	Forsythe

Fountain	Long, Md.	Price, Ill.
Fraser	McClory	Pritchard
Frelinghuysen	McCloskey	Quie
Frenzel	McCollister	Quillen
Frey	McCormack	Railsback
Froehlich	McDade	Randall
Fulton	McEwen	Rees
Fuqua	McFall	Regula
Gaydos	McKay	Reuss
Gettys	McKinney	Rhodes
Giaimo	McSpadden	Rinaldo
Gibbons	Macdonald	Roberts
Gilman	Madden	Robinson, Va.
Ginn	Madigan	Robison, N.Y.
Guyer	Mahon	Rodino
Gonzalez	Mailliard	Roe
Goodling	Mallary	Rogers
Grasso	Mann	Roncalio, Wyo.
Green, Oreg.	Maraziti	Rooney, Pa.
Green, Pa.	Martin, Nebr.	Rose
Grover	Martin, N.C.	Rosenthal
Gude	Mathias, Calif.	Rostenkowski
Gunter	Mathis, Ga.	Roush
Haley	Matsunaga	Roy
Hamilton	Mayne	Roybal
Hammerschmidt	Mazzoli	Ruppe
Hanley	Meeds	Ruth
Hanrahan	Mezvinsky	St Germain
Hansen, Idaho	Michel	Sarasin
Hansen, Wash.	Milford	Sarbanes
Harvey	Miller	Satterfield
Hastings	Minish	Schneebeli
Hawkins	Minshall, Ohio	Schoeder
Heckler, Mass.	Mitchell, Md.	Sebelius
Heinz	Mitchell, N.Y.	Seiberling
Helstoski	Mizell	Shipley
Henderson	Moakley	Shoup
Hicks	Mollohan	Shriver
Hillis	Montgomery	Sikes
Hinshaw	Moorhead, Pa.	Sisk
Hogan	Mosher	Skubitz
Holifield	Moss	Slack
Holtzman	Murphy, Ill.	Smith, Iowa
Horton	Murphy, N.Y.	Smith, N.Y.
Hosmer	Natcher	Snyder
Huber	Nedzi	Staggers
Hudnut	Nelsen	Stanton,
Hungate	Nichols	J. William
Johnson, Pa.	Nix	Stanton, James V.
Jones, N.C.	Obey	Stark
Jones, Tenn.	O'Brien	Steed
Jordan	O'Hara	Steiger, Wis.
Karth	O'Neill	Stephens
Kastenmeier	Owens	Stratton
Kazen	Passman	Stubblefield
Kemp	Patman	Stuckey
Kluczynski	Patten	Studds
Koch	Pepper	Symington
Kyros	Perkins	Talcott
Landgrebe	Pettis	Taylor, N.C.
Latta	Peyser	Teague, Calif.
Leggett	Pickle	Thompson, N.J.
Lehman	Pike	Thomson, Wis.
Lent	Poage	Thone
Litton	Podell	Thorton
Long, Ia.	Preyer	Tiernan

Ullman	Widnall	Wylie
Van Deerlin	Wiggins	Wyman
Vander Jagt	Williams	Yates
Vanik	Wilson, Bob	Yatron
Vigorito	Wilson, Charles H.,	Young, Ga.
Waldie	Calif.	Young, Ill.
Wampler	Wilson, Charles, Tex.	Young, Tex.
White	Winn	Zablocki
Whitehurst	Wright	Zion
Whitten	Wydler	Zwach

NOT VOTING—41

Bell	Hays	Rooney, N.Y.
Bolling	Hébert	Runnels
Brademas	Hunt	Sandman
Breaux	Ichord	Steele
Burke, Calif.	Johnson, Calif.	Stokes
Clark	Jones, Ala.	Sullivan
Clawson, Del	Keating	Taylor, Mo.
Clay	Melcher	Udall
Dent	Metcalfe	Veysey
Diggs	Mills, Ark.	Walsh
Erlenborn	Morgan	Ware
Gray	Reid	Whalen
Gubser	Riegle	Wyatt
Harsha	Roncallo, N.Y.	

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 116] offered by Mr. Anderson of California to the amendment in the nature of a substitute offered by Mr. Staggers: On page 31, line 21, strike out the period and insert the following: “, *Provided*, That the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1975 may not exceed 30 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year; and the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1976 may not exceed 10 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year. For purposes of this subsection, the term ‘fuel inefficient passenger motor vehicle’ for fiscal year 1975 means an automobile which does not achieve at least seventeen miles per gallon as certified by the Department of Transportation; for fiscal year 1976, and thereafter, the term ‘fuel inefficient passenger motor vehicle’ means an automobile which does not achieve at least twenty miles per gallon, as certified by the Department of Transportation.”

Mr. BROYHILL of North Carolina. Mr. Chairman, I reserve a point of order on this amendment.

Mr. ANDERSON of California. Mr. Chairman, I am offering an amendment [Sec. 116(g)] which would require that the executive agencies of the Federal Government purchase small automobiles rather than the gas-guzzling, heavyweight automobiles that it now purchases. Specifically, my amendment would require that the aggregate number of fuel inefficient automobiles purchased by all executive agencies in fiscal year 1975 may not exceed 30 percent of all automobiles purchased,

and in fiscal year 1976, the number could not exceed 10 percent of cars purchased.

What my amendment proposes to do is quite simply to require that our Federal Government set a good example by replacing its worn-out automobiles with economy models.

Naturally I do not need to point out to this body the vital necessity of conserving our Nation's supply of gasoline wherever possible. Nor is it necessary to remind ourselves that much of the pinch of the gasoline shortage is being felt by the average American taxpayer.

However, what may be helpful is to point out one area in which our Federal Government is gluttonly gulping down this precious fuel.

While the Federal Government owns 89,038 sedans or station wagons, it is shocking to me that up to a couple of months ago the Federal Government did not own even one domestic economy-model motor vehicle in its fleet of motor vehicles.

Recently, the Federal Government did contract to purchase 4,518 new compact cars. However, this represents only 22 percent of the new automobiles it will purchase this year. While this is a step in the right direction, it is far too small to have any significant impact on this energy crisis. The Federal Government annually replaces 19,829 sedans. I urged that you join with me today in supporting this amendment to require that 70 percent of the future Federal agency sedans be economy models.

If the cars owned by the Federal Government increased gasoline mileage to an average of 20 miles per gallon—a 33-percent increase—then we would save nearly 12.5 million gallons annually. This alone would be enough to heat all American households for 1 day.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman be so kind as to furnish for the Record a list of any and all American made automobiles of any size that will get 20 miles to the gallon?

Mr. ANDERSON of California. Mr. Chairman, yes, I would be pleased to. We drive one in California, the Pinto, that gets 24 miles. The Pinto, the Vega, the Gremlin; there are several, but the gentleman says 20 miles per gallon; my amendment says 17 miles for fiscal year 1975, which is a half a year from now, and 20 miles per gallon for fiscal year 1976.

Mr. KUYKENDALL. Will the gentleman be willing to accept an amendment to his amendment requiring that these be American made automobiles?

Mr. ANDERSON of California. Yes, that is my intent.

Mr. CARNEY of Ohio. Mr. Chairman, I would like to tell the gentleman that in mileage tests of the GM Vega, which is made in my district, the Vega equipped with a gear shift, a standard gear shift, gave 24 miles per gallon, and those with automatics gave 20 miles per gallon.

Mr. STRATTON. Mr. Chairman, does the gentleman refer in his amendment to compact station wagons?

Mr. ANDERSON of California. Mr. Chairman, at the suggestion of counsel in drawing the amendment, it is a fuel efficient passenger motor vehicle we are talking about. It means an automobile designed to carry five or less passengers.

Mr. STRATTON. The gentleman referred to compact station wagons. There are compacts made to look like station wagons, but if a person

really needs a station wagon, he is not going to be able to get it in that size.

Mr. ANDERSON of California. In the amendment, we are referring to passenger motor vehicles.

Mr. STRATTON. Mr. Chairman, I would support that part of the amendment.

Mr. MILLER. Mr. Chairman, does this include automobiles for the legislative and judicial branches as well as the administrative branch?

Mr. ANDERSON of California. No, this amendment is directed to the executive agencies.

Mr. MILLER. The gentleman is exempting the legislative and judicial branches?

Mr. ANDERSON of California. I am just extending the provisions of the present bill. It is the executive branch that buys the most automobiles. They have a fleet of 89,000 automobiles. I was shocked when I found that at one time none of them, up until a couple of months ago, were what we would call an economy-type car.

Mr. O'HARA. Mr. Chairman, I hope the gentleman will make legislative history that nothing in his amendment would prevent the executive branch from making greater use of, let us say, 9- and 12-passenger vans and station wagons which might be more economical of gasoline consumption for the number of passengers.

POINT OF ORDER

The CHAIRMAN. The gentleman from North Carolina (Mr. Broyhill) has reserved a point of order against the amendment.

Does the gentleman desire to insist upon his point of order?

Mr. BROYHILL of North Carolina. I do, Mr. Chairman.

Mr. Chairman, I make a point of order against this amendment, inasmuch as it deals with the specifications of certain equipment on American-made automobiles, and it is not under the jurisdiction of this committee, nor under the jurisdiction of any committee of the House.

The CHAIRMAN. Does the gentleman from California (Mr. Anderson) desire to be heard on the point of order?

Mr. ANDERSON of California. I do, Mr. Chairman.

Mr. Chairman, I would just like to read a portion of the present bill. All we are doing is extending the provisions of the bill.

The present bill provides as follows:

As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of government, where practical, to use economy model motor vehicles. [Sec. 116(g)]

Mr. Chairman, we are simply amending and extending the same provision.

The CHAIRMAN (Mr. Bolling). The Chair is prepared to rule.

The Chair points out that taken as an isolated point, the argument made by the gentleman from North Carolina (Mr. Broyhill) might have some validity, but the answer made by the gentleman from California (Mr. Anderson) is in direct response to the point. The subject is in the bill.

The Chair, therefore, overrules the point of order.

Mr. BROYHILL of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

Frankly, I have been studying this amendment, and I really do not know what the force and effect of this amendment is.

We have no idea whether the automobiles referred to will be available in this country, whether they will be purchased as American automobiles or whether they will have to be foreign automobiles.

This is an amendment which says that the Federal Government has to purchase certain percentages of automobiles that apparently achieve certain mileages per gallon as certified by the Department of Transportation.

We already have in the bill language that says that the President shall initiate programs of purchasing automobiles for the Federal Government, where necessary, "to require all agencies of Government, where practical, to use economy model motor vehicles."

In my opinion, this amendment is probably restrictive and perhaps may not even be able to be achieved, under normal circumstances.

Mr. Chairman, I urge that the amendment be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Anderson) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

Mr. ANDERSON of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 299, yeas 89, answered "present" 1, not voting 43, as follows:

[Roll No. 672]

AYES—299

Abdnor	Blatnik	Chisholm
Abzug	Boggs	Clancy
Adams	Boland	Clausen, Don H.
Addabbo	Bowen	Cleveland
Alexander	Brademas	Cochran
Anderson, Calif.	Brasco	Cohen
Anderson, Ill.	Bray	Collins, Ill.
Andrews, N.C.	Breckinridge	Collins, Tex.
Andrews, N. Dak.	Brinkley	Conlan
Annunzio	Brooks	Conte
Archer	Broomfield	Cotter
Armstrong	Brotzman	Coughlin
Ashley	Brown, Calif.	Crane
Aspin	Brown, Mich.	Cronin
Badillo	Buchanan	Culver
Bafalis	Burgener	Daniels, Dominick V.
Baker	Burke, Fla.	Danielson
Bauman	Burke, Mass.	Davis, Ga.
Bennett	Burlison, Mo.	Davis, S.C.
Bergland	Burton	de la Garza
Bevill	Byron	Delaney
Blaggi	Carey, N.Y.	Dellenback
Biester	Carney, Ohio	Dellums
Bingham	Casey, Tex.	Denholm

Donohue	Johnson, Pa.	Owens
Dorn	Jones, Ala.	Patman
Downing	Jones, N.C.	Patten
Drinan	Jones, Okla.	Pepper
Dulski	Jones, Tenn.	Perkins
du Pont	Jordan	Pettis
Eckhardt	Karth	Pike
Edwards, Ala.	Kastenmeier	Poage
Edwards, Calif.	Kazen	Podell
Eilberg	Kemp	Powell, Ohio
Eshleman	Ketchum	Preyer
Evans, Colo.	King	Price, Ill.
Evins, Tenn.	Kluczynski	Pritchard
Fascell	Koch	Quie
Findley	Kyros	Railsback
Fish	Landrum	Randall
Fisher	Latta	Rangel
Flood	Leggett	Rarick
Flowers	Lehman	Rees
Flynt	Lent	Regula
Fountain	Litton	Reuss
Fraser	Long, La.	Rinaldo
Frenzel	Long, Md.	Roberts
Frey	Lott	Robison, N.Y.
Fulton	Lujan	Rodino
Fuqua	McCloskey	Roe
Gaydos	McCollister	Rogers
Gettys	McCormack	Roncalio, Wyo.
Gaiamo	McDade	Rose
Gibbons	McKay	Rosenthal
Gilman	McKinney	Rostenkowski
Ginn	McSpadden	Roush
Goldwater	Madden	Rousselot
Gonzalez	Madigan	Roy
Grasso	Mahon	Roybal
Green, Oreg.	Mailliard	Ruth
Green, Pa.	Mann	Ryan
Grover	Maraziti	St Germain
Gude	Martin, N.C.	Sarasin
Gunter	Mathias, Calif.	Sarbanes
Guyer	Mathis, Ga.	Scherle
Haley	Mazzoli	Schroeder
Hamilton	Meeds	Seiberling
Hanley	Mezvinsky	Shipley
Hanna	Milford	Shoup
Hanrahan	Miller	Shuster
Harrington	Minish	Sisk
Hawkins	Mink	Slack
Hechler, W. Va.	Minshall, Ohio	Smith, Iowa
Heckler, Mass.	Mitchell, Md.	Smith, N.Y.
Heinz	Mitchell, N.Y.	Snyder
Helstoski	Mizell	Stanton, James V.
Henderson	Moakley	Stark
Hicks	Montgomery	Steelman
Hillis	Moorhead, Calif.	Stephens
Hinshaw	Moorhead, Pa.	Stratton
Hogan	Mosher	Stubblefield
Holifield	Murphy, Ill.	Stuckey
Holt	Murphy, N.Y.	Studds
Holtzman	Myers	Symington
Horton	Natcher	Symms
Howard	Nelsen	Talcott
Hudnut	Nichols	Taylor, N.C.
Hungate	Obey	Teague, Calif.
Jarman	O'Brien	Thompson, N.J.
Johnson, Colo.	O'Neill	Thone

Thornton	Whitehurst	Wyman
Towell, Nev.	Whitten	Yates
Treen	Widnall	Yatron
Ullman	Williams	Young, Ga.
Van Deerlin	Wilson, Bob	Young, Ill.
Vander Jagt	Wilson, Charles H., Calif.	Young, Tex.
Vanik	Wilson, Charles, Tex.	Stanton, James V.
Vigorito	Winn	Zablocki
Waldie	Wolff	Zion
White	Wright	Zwach

NOES—89

Arends	Froehlich	Pickle
Ashbrook	Goodling	Price, Tex.
Barrett	Griffiths	Quillen
Blackburn	Gross	Rhodes
Brown, Ohio	Hammerschmidt	Robinson, Va.
Broyhill, N.C.	Hansen, Idaho	Rooney, Pa.
Broyhill, Va.	Hansen, Wash.	Ruppe
Burleson, Tex.	Harvey	Satterfield
Butler	Hastings	Schneebeli
Camp	Hosmer	Sebelius
Carter	Huber	Shriver
Cederberg	Hutchinson	Sikes
Chamberlain	Kuykendall	Skubitz
Chappell	Landgrebe	Spence
Collier	McClory	Staggers
Conable	McEwen	Stanton, J. William
Daniel, Dan	McFall	Steed
Daniel, Robert W., Jr.	Macdonald	Steiger, Ariz.
Davis, Wis	Mallary	Steiger, Wis.
Dennis	Martin, Nebr.	Thomson, Wis.
Derwinski	Matsunaga	Tiernan
Devine	Mayne	Waggonner
Dickinson	Michel	Wampler
Dingell	Mollohan	Wiggins
Duncan	Moss	Wydlar
Esch	Nedzi	Wylie
Foley	O'Hara	Young, Alaska
Ford, William D.	Parris	Young, Fla.
Forsythe	Passman	Young, S.C.
Frelinghuysen	Peyser	

ANSWERED "PRESENT"—1

Beard

NOT VOTING—43

Bell	Hays	Runnels
Bolling	Hébert	Sandman
Breaux	Hunt	Steele
Burke, Calif.	Ichord	Stokes
Clark	Johnson, Calif.	Sullivan
Clawson, Del.	Keating	Taylor, Mo.
Clay	Melcher	Teague, Tex.
Conyers	Metcalfe	Udall
Corman	Mills, Ark.	Veysey
Dent	Morgan	Walsh
Diggs	Nix	Ware
Erlenborn	Reid	Whalen
Gray	Riegle	Wyatt
Gubser	Roncallo, N.Y.	
Harsha	Rooney, N.Y.	

So the amendment to the amendment in the nature of a substitute was agreed to. [Sec. 116(g).]

The result of the vote was announced as above recorded.

The CHAIRMAN. The Chair understood the Committee was going to allow a noncommittee member on this side, the gentleman from Texas, to offer his amendment. The Chair would like to recognize the gentleman from Texas (Mr. Price).

AMENDMENT OFFERED BY MR. PRICE OF TEXAS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. PRICE of Texas. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Price of Texas to the amendment in the nature of a substitute offered by Mr. Staggers:

Page 37, line 5 is amended to read as follows:

Sec. 118. DEREGULATION OF THE PRICE OF NATURAL GAS AND IMPORTATION OF LIQUEFIED NATURAL GAS.

Page 37, line 6, insert "(a)" before "The Emergency".

Page 37, after line 18, insert the following new subsection:

(b) (1) Section 2(6) of the Natural Gas Act is amended by inserting before the period at the end thereof the following: ", except that such term does not include a person engaged in the production or gathering and sale of natural gas whether or not such person is affiliated with any person engaged in the transmission of natural gas to consumer markets or the distribution of natural gas to the ultimate consumer".

(2) Section 4(a) is amended by inserting before the period at the end thereof the following: ": Provided, however, That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural-gas company for or in connection with the purchase of natural gas from a person exempt under section 2(6)".

(3) Section 5(a) is amended by inserting before the period at the end thereof the following:

" : Provided further, however, that the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural-gas company for or in connection with the purchase of natural gas from a person exempt under section 2(6)".

Page 2, the item in the table of contents dealing with Sec. 118 is amended to read as follows:

Sec. 118. DEREGULATION OF THE PRICE OF NATURAL GAS AND IMPORTATION OF LIQUEFIED NATURAL GAS.

Mr. STAGGERS. Mr. Chairman, I reserve a point of order against the amendment.

I will reserve it until the gentleman makes his statement.

Mr. PRICE of Texas. Mr. Chairman, I thank the chairman of the committee for reserving his point of order and I want to compliment him and the members of his committee for their untiring efforts in behalf of this bill. I do not want to be obstinate in my persistence in trying to put my amendment in here, but the time has already passed for the Congress and the United States to face up to its responsibility to assure an adequate supply of natural gas for the consumers of the United States.

Before I continue with my remarks, in case I am shut off by the 5-minute rule, I want to say that the current average price of natural gas under regulation at the wellhead in the United States is about 0.20 cents per mcf. We are importing liquefied natural gas into this country at a cost of \$1.30. I want to repeat that. The current average price of natural gas under regulation at the wellhead in this country is about

0.20 cents per mcf and it is regulated by the Federal Power Commission in this country. That gas is there. If the Members want to put it in the gas tanks of this country it is there.

This regulation was passed in 1938 and by court order in 1954 was sustained. We are importing liquefied gas for the homes of our customers at \$1.30 and I suggest the Members try to go home and explain this. The gas is here if we want to give it to our people.

Mr. Chairman, natural gas, the cleanest burning, cheapest fuel we have in this country has been discriminated against by repressive legislation. Our other primary fuels—coal and oil—are regulated by the laws of supply and demand, subject only to national security considerations. Gas is regulated by the Congress through delegation to the Federal Power Commission.

In the last 4 years, the FPC has recognized the repressive nature of the decisions of the 1960's, which resulted in lower and lower prices at the wellhead until exploration and development of new reserves was dangerously discouraged—discouraged not only by the prices set, but, more important, discouraged by the absolute uncertainty that faces a person who sells gas in interstate commerce. In only three areas of the country—Permian and Hugoton Anakarko, and Appalachian, Ill., does that person know how much of his contract price he can keep, and, even then, the FPC can lower his price for the future. In the other areas of the country—vital areas of production like southern Louisiana, including the Federal domain, Texas gulf coast, other Southwest, and Rocky Mountain, the producer has no assurance as to what price he is selling his gas, because the FPC or the courts can order refunds of past moneys collected and reduce the price for the future. FPC rate cases sometimes take 12 years to process—and the clock is still running on court review. How Congress, with its plenary power over interstate commerce, can permit a system which requires a person to deliver a commodity without knowing what he will be paid for delivering it for years and years which have come and gone and which are yet to come, is a mystery, and is probably the result of the lack of a crisis. We have a crisis now, as many of us have predicted, which commands the attention of the Congress. More than a dozen major interstate natural gas pipelines are curtailing service to consumers this winter.

Curtailing service is a nice way of saying that consumers are being cut off from gas supplies because there is not enough gas to meet current requirements, much less to add new customers. As factories and schools are closed down, as crops are rotting for lack of process gas, as homeowners are being turned away from coast to coast, we, the Congress, cannot stand idly by and say that the policies of the Natural Gas Act, adopted in 1938 and first applied judicially to producers in 1954, are adequate. Congress must recognize its own failures and those of its chosen instrument, the FPC, and remove the cloud over the sale of natural gas in interstate commerce. Earlier this year, I introduced legislation, H.R. 3299, that would take the FPC out of the business of regulating the sale of nature gas in interstate commerce—directly, or as Federal agencies sometimes do, indirectly. Market forces would control the sale of gas by producers—both independent producers and affiliates of pipelines who, in desperation, are competing for leases so new supplies can be attached for use by consumers. For gas now being sold in interstate commerce the existing contracts could, for the first time, be honored as the parties negotiated them in the first place, but

which have been overridden by the FPC. Gas sold in the future would be regulated by the contracts not by the FPC's judgment as to what a contract should contain. Thus, the disincentives of regulation would be removed, and there would be no regulatory impediments to exploration and development of reserves. The consumer would benefit in expanded gas supplies from assured domestic sources and at a price far cheaper than the exotic alternatives of freezing gas in Algeria or Russia and transporting it by tanker to our shores at a cost of \$1.30 an mcf up as compared to the current average price under regulation of about \$0.20 per mcf. The FPC has already approved a base load project of Algerian LNG for our east coast, and that is not all. Also at a cost of \$1.30 an mcf and up, pipelines are turning to manufacturing synthetic gas from naphtha and natural gas liquids, thereby threatening to increase the shortages of vital feedstocks for manufacturing. How the FPC can hold the wellhead price on an area rate basis at 26 cents in south Louisiana and, at the same time permit gas to be sold at \$1.30 an mcf from a plant is explained by the way the National Gas Act has been construed, but the result is intolerable to the American consumer. I urge the Congress to join me in enacting this amendment which will do no more than allow natural gas to compete on equal terms with oil and coal in the interstate market. By turning our free enterprise system loose, private industry will solve this problem quicker than all of the Government regulations we can pass into legislation.

I rise in support of the gentleman's amendment. I have addressed this Chamber on several occasions during the past weeks and days on what I believe to be a matter of crucial importance in the effective resolution of the energy crisis—the need for substantial increases in production through which would then come the necessary increase in supplies of fuels.

Instead of trying to live with inadequate resources, I think a more appropriate course of action for the Nation, and the Congress which represents its people, would be an increase in supplies with which to meet reasonable demands. The answer is production, not allocation or rationing. And increases in production—marked increases—are possible, if we remove disincentives to production.

Such disincentives as artificial pricing schemes, which have discouraged additional explorations, recoveries, processing, and marketing; as tax policies which make it more advantageous to live with existing quantities, rather than risking losses with new wells which do not produce; as tax policies which leave the investor with inadequate capital with which to reinvest in additional explorations; as price controls which do not permit sufficient returns on investments with which to buy new mineral rights or equipment—all of these things, in varying degrees, have discouraged production.

Natural gas is one of the principal fuel sources of the Nation. It ought to have been put in greater usage during the past several years, but Government policies discouraged the increase in it. Only when the principles embodied in the Natural Gas Supply Act, which I support, are enacted—through which prices will be allowed to attain a more natural market level, by the free play of supply and demand—will there be, once again, sufficient return on investments for companies to again explore, drill, recover, and sell natural gas adequate to meet

the Nation's needs. To increase production alone, deregulation of natural gas should be supported.

Mr. PRICE of Texas. Mr. Chairman, in further reference to some of the remarks on profits made by the major companies, primarily the companies are owned by the stockholders. The consumers in the country are the ones paying the taxes in these oil companies.

The investors own 90 percent to 100 percent of the stock in these major companies.

I would also like to point out the fact that 80 percent of the wells drilled in this country are by independent producers, not the major companies of this country.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from West Virginia press his point of order?

Mr. STAGGERS. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. STAGGERS. The amendment in the nature of a substitute does not contain provisions governing price regulations of natural gas. The gentleman's amendment proposes a direct amendment to provisions of the Natural Gas Act.

It is, therefore, not germane and out of order, because this pricing authority is assigned to the Federal Power Commission under that act and we do not deal with it in any way in our bill.

Mr. PRICE of Texas. Mr. Chairman, in the report on page 5, **section 106**, coal conversion and allocation, it deals with the provision that is a primary energy source:

The burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in **subsection (b)** of this section until January 1, 1980. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal.

It is further mentioned in **section 118**, importation of liquefied natural gas, **Section 9** says:

Sec. 9. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date.

Mr. MACDONALD. Mr. Chairman, I desire to be heard on the point of order.

Mr. Chairman, I would like to point out to the gentleman that most of what he said is true. It is unfortunate that the cost of liquefied natural gas has reached the heights it has.

If the gentleman understands the business, and I am sure he probably does, he also knows that this is the fault of the natural gas people themselves. They have capped wells throughout the Southwest. They have capped them in Louisiana; they have capped them in Arizona; they have capped them in many places here in the United States. When they came and asked to have new gas deregulated——

The CHAIRMAN. The gentleman will proceed in order.

Mr. MACDONALD. Mr. Chairman, will the Chairman translate that for me?

The CHAIRMAN. Is the gentleman addressing himself to the point of order?

Mr. MACDONALD. Yes. In addition. I will say that in addition to the arguments I was about to give, it has nothing to do with the bill that is before us today. It may be before us in another bill at another time. It does not belong before this bill, and I urge that the Chair rule that this amendment is out of order.

Mr. DINGELL. Mr. Chairman, I wish to be heard on the point of order, very briefly.

Mr. Chairman, the requirements of the rule of germaneness are that the amendment be germane, first to the bill and second to the language of the section to which it is offered.

There is nothing in the bill dealing with deregulation of natural gas. Therefore, the amendment fails with regard to that point. Second, there is nothing in the section to which the amendment alludes which deals with deregulation of natural gas.

The amendment purports to amend **section 118** and it changes the title, deregulation of the price of natural gas and importation of liquefied natural gas. The section to which it alludes, **section 118**, is a section relating to the importation of natural gas.

By no distortion of the rules of the House or common logic or the English language may it be construed that deregulation of natural gas and importation are one and the same thing, or indeed are even germane to each other.

For those two reasons, Mr. Chairman, the amendment fails to be violative of the rule of germaneness.

Mr. PICKLE. Mr. Chairman, I wish to be heard on the point of order.

Mr. Chairman, I ask at this time, before the ruling is made by the Chair, to state first that I hope that the amendment would be considered as germane because this vital supply of energy is needed.

This question did come before the committee, and the chairman of the committee during our discussion ruled that natural gas was not a part of this bill, and it is not included in the definition. But, I take this time to ask the chairman, assuming the Chair were to rule that it was not germane, when the chairman would expect to take up this subject about the deregulation of natural gas.

The CHAIRMAN. The gentleman is not speaking to the point of order.

Does the gentleman from Texas (Mr. Price) desire to be heard further?

Mr. PRICE of Texas. I do, Mr. Chairman, for just a moment.

In response to the gentleman's statement a minute ago, I would like to say that in **section 118** it says as follows:

The President may by order, on a finding that such action would be consistent to the public interest * * *

Mr. Chairman, I say to the Members that I think the price of gas at the wellhead of 23 cents versus the importation of gas to our consumers at \$1.63 is certainly in the interest of the American consumer.

Mr. KEMP. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair will be glad to hear the gentleman from New York (Mr. Kemp) on the point of order.

Mr. KEMP. I thank the Chairman.

Mr. Chairman, the title of the bill is as follows:

To assure * * * that the essential energy needs of the United States are met * * *

I would suggest and submit that that certainly makes this amendment in order, as well as the section the gentleman in the well has alluded to in his remarks.

The CHAIRMAN. The Chair is ready to rule.

For the reasons essentially given by the gentleman from Michigan, which the Chair will repeat at least in part, very briefly, the amendment is not germane.

Those reasons are that the amendment which the committee is considering does not amend the Natural Gas Act. It should also be noted that the section deals with a single subject, and under the germaneness rule an individual proposition is not germane to another individual proposition.

Therefore, the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. ROY TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ROY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 117] offered by Mr. Roy to the amendment in the nature of a substitute offered by Mr. Staggers. Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

"(9) (A) This subsection shall not apply to the first sale of crude oil or petroleum condensates produced from any lease within the United States by a seller (i) who produced such oil or condensate, (ii) who (together with all persons who control, are controlled by or who are under common control with, such seller), produces in the aggregate less than 25,000 barrels per day of crude oil and petroleum condensates, averaged annually, and (iii) who is not a refiner or marketer or distributor of refined petroleum products (or a person who controls, is controlled by, or is under common control with such a refiner, marketer, or distributor).

"(B) For purposes of subparagraph (A)—

"(i) a person produces crude oil or petroleum condensates only if he has an interest in the production thereof which permits him to take his production (or share thereof) in kind, and

"(ii) the term 'control' means control by ownership."

Mr. ROY. Mr. Chairman, I offer this amendment in cooperation with the gentleman from Kansas (Mr. Skubitz) who is from my own State, and I wish to express the concern of the gentleman and of myself, as well as that of other Members, that we protect the independent oil producer.

Mr. Chairman, the intent of section 117, restrictions on windfall profits, is in my opinion to address our concern about the windfall

profits of the major oil companies, those companies that are vertically integrated and most of which also have substantial foreign operations.

This section was not intended to and should not be allowed to reverse what we have seen recently as the encouraging trend toward dramatic increases in drilling and exploratory efforts here in the United States.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. ROY. Yes, I yield to the distinguished chairman of the committee.

Mr. STAGGERS. Mr. Chairman, I have been reading the amendment.

I would be inclined to accept the amendment on this side.

Mr. ROY. Mr. Chairman, in spite of an overall decline in exploratory wells drilled in the past decade, the independents were still responsible for over 70 percent of these wells. Based on this fact and this accomplishment, and realizing that the independent explorer-producer concentrates overwhelmingly on domestic exploration, we can rely on the historical inclination of these independents to return their profits to more exploratory efforts in the United States.

The small businessmen in American oil exploration and production have faced the giant, vertically-integrated major oil companies, and in spite of severe competitive economic disadvantage and a disproportionately small voice at the highest levels of government, the independent oil-explorer-producer has nevertheless drilled more exploratory wells and found more onshore domestic crude and reserves than their disproportionately advantaged major competitors.

I construe my responsibility to protect the small businessman to include a concern for the small businessman who is drilling for and finding the American oil reserves we so urgently need.

If we are truly concerned about the potential negative impact of overcontrol of the petroleum industry by a handful of super-sized giants, we must encourage the independent sector of the petroleum industry which by its very existence maintains the spark of competition in domestic exploration.

Lastly, we must be on our guard that we do not place time period constraints on the independent sector of the oil business—constraints which tie the discovery of reserves to a period of time in which unfavorable economics resulted in inadequate reserves being discovered in the United States. That is clearly the opposite of what we must do to increase our supplies.

Therefore, Mr. Speaker, I offer the independent oil producer this amendment to **section 117**. This would protect the small businessman, retain an economic incentive to encourage the discovery of new domestic reserves, but would not alter the principal intent of **section 117** of this bill which is to prevent the gouging of the public by the major, refining and marketing oriented companies.

Mr. ECKHARDT. I would merely say to the gentleman that if we can exclude all those in the coal industry, then certainly we should be able to exclude the smaller elements in the oil industry.

Mr. ROY. The gentleman is correct. This is the equivalent of the coal amendment which we adopted yesterday.

Mr. JONES of Oklahoma. I wish to commend the gentleman on this much-needed amendment and state that I intend to support it.

Mr. MONTGOMERY. I also rise in support of the amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask if the gentleman from Kansas would answer some questions?

Yesterday I tried to strike this whole section from the bill on the grounds that, first it was a completely unworkable arrangement and, second, that it attempted to do too much and included all of the oil dealers, jobbers, gasoline dealers, all across the country.

I am not sure what this amendment really does. As I understand what the gentleman is trying to do, it is to exempt certain persons from the effect of the windfall profits section. What I would like to ask the gentleman is who will be exempted from the provisions of **section 117**, the so-called windfall profits section?

As I understand what the amendment says, it is, it will not apply to the first sale of crude oil or petroleum condensates produced from any lease within the United States.

What does that mean? Does this mean that the oil jobber in my district and the gentleman's district, are they going to be included in this section?

Mr. ROY. Mr. Chairman, if the gentleman will yield, there are two conditions: That the individual produces crude oil in the amount of less than 25,000 barrels a day, and the second condition is that he is not also a refiner and marketer, that is virtually integrated.

Mr. BROYHILL of North Carolina. The gentleman is saying that a person who is not a refiner and if he is not a marketer that he is subject to the provisions of this section? I am not clear on what the gentleman means.

Mr. ROY. I will repeat that there are two conditions for a crude oil producer to be exempted. The first condition is that he produces less than 25,000 barrels a day. And I might add that that is the historical division between large producers and small producers.

Mr. BROYHILL of North Carolina. Those under 25,000 barrels a day would be permitted the windfall profit?

Mr. ROY. They are exempted from **section 117**.

Mr. BROYHILL of North Carolina. What about the oil jobber and distributor who are distributing gasoline and petroleum products in the gentleman's district, and in my district?

Mr. ROY. This amendment does not exempt them.

Mr. BROYHILL of North Carolina. It does not exempt them?

Mr. ROY. That is correct.

Mr. FRASER. Mr. Chairman, I move to strike the requisite number of words.

Mr. PRICE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kansas (Mr. Roy).

I would like to say to those who are opposed to this amendment that these are the objections that caused, as I spoke about it a while ago, the 20 cents being paid at the wellhead for gas in this country.

If you would rather pay \$1.30 for liquefied gas out of Algeria and Russia, then I would say we ought to turn this amendment down. But I say to the Members of this body that 80 percent of the wells drilled in this country are by the people whom the gentleman from

Kansas (Mr. Roy) in his amendment is trying to protect so as to produce the energy that we need.

It seems every time we turn around we are trying to stifle the people that are trying to help us get the energy that we need.

So, Mr. Chairman, I urge this body to support the amendment offered by the gentleman from Kansas (Mr. Roy).

Mr. SKUBITZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment. I had prepared another amendment because I felt the provisions of the windfall proviso would eliminate the stripper well operators of this country. This amendment is somewhat broader than the amendment I intended to offer and I support it.

Mr. BROYHILL of North Carolina. I thank the gentleman. I can understand that the gentleman from Kansas is trying, perhaps, to amend this section in some way. I think that it ought to be stricken altogether and rewritten completely. I do not think that this amendment really does the job, and I would ask that it be voted down.

Mr. PICKLE. I want to rise in support of the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. Roy) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROY. Mr. Chairman, I demand a recorded vote.

Mr. Chairman, I ask unanimous consent to withdraw my demand for a recorded vote.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

RECORDED VOTE

Mr. PRICE of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 194, not voting 49, as follows:

[Roll No. 673]

AYES—189

Alexander	Buchanan	Collins, Tex.
Archer	Burgener	Conlan
Armstrong	Burke, Fla.	Crane
Baker	Burleson, Tex.	Daniel, Dan
Barrett	Butler	Daniel, Robert W., Jr.
Bauman	Byron	Davis, Ga.
Beard	Camp	Davis, S.C.
Boggs	Carter	de la Garza
Bowen	Casey, Tex.	Denholm
Breckinridge	Cederberg	Dennis
Brinkley	Chamberlain	Dickinson
Brooks	Chappell	Donohue
Brozman	Clancy	Downing
Brown, Mich.	Clausen, Don H.	Duncan
Broyhill, Va.	Cochran	Eckhardt

Edwards, Ala.
 Eilberg
 Evans, Colo.
 Fisher
 Flowers
 Flynt
 Forsythe
 Fountain
 Fulton
 Fuqua
 Gaydos
 Gettys
 Ginn
 Goldwater
 Gonzalez
 Gray
 Green, Oreg.
 Gross
 Haley
 Hammerschmidt
 Hanna
 Hansen, Wash.
 Hastings
 Henderson
 Hicks
 Hogan
 Holt
 Horton
 Hosmer
 Huber
 Hudnut
 Hutchinson
 Jarman
 Johnson, Colo.
 Johnson, Pa.
 Jones, Okla.
 Jones, Tenn.
 Jordan
 Karth
 Kazen
 Kemp
 Ketchum
 Kuykendall
 Landgrebe
 Landrum
 Litton
 Long, La.
 Long, Md.

Lott
 Lujan
 McClory
 McCloskey
 McKay
 McSpadden
 Mahon
 Mailliard
 Mann
 Maraziti
 Mathias, Calif.
 Mathis, Ga.
 Mayne
 Michel
 Milford
 Minshall, Ohio
 Mollohan
 Montgomery
 Moorhead, Calif.
 Moss
 Natcher
 Nichols
 O'Brien
 Owens
 Passman
 Pepper
 Perkins
 Pettis
 Pickle
 Poage
 Podell
 Powell, Ohio
 Preyer
 Price, Tex.
 Pritchard
 Rarick
 Rees
 Regula
 Roberts
 Robinson, Va.
 Rogers
 Roncalio, Wyo.
 Rooney, Pa.
 Rose
 Rousselot
 Roy
 Ruth
 Ryan

Satterfield
 Scherle
 Schneebeli
 Sebelius
 Shipley
 Shriver
 Shuster
 Sikes
 Sisk
 Skubitz
 Slack
 Spence
 Staggers
 Stanton, J. William
 Steed
 Steelman
 Steiger, Ariz.
 Stephens
 Stubblefield
 Stuckey
 Symington
 Symms
 Taylor, N.C.
 Thomson, Wis.
 Thornton
 Towell, Nev.
 Treen
 Ullman
 Van Deerlin
 Vander Jagt
 Waggonner
 Wampler
 White
 Whitehurst
 Whitten
 Wiggins
 Williams
Wilson, Bob
 Wilson, Charles, Tex.
 Winn
 Wright
 Yatron
 Young, Alaska
 Young, Ga.
 Young, S.C.
 Young, Tex.
 Zablocki
 Zion

NOES—194

Abdnor
 Abzug
 Adams
 Addabbo
 Anderson, Calif.
 Anderson, Ill.
 Andrews, N.C.
 Andrews, N.Dak.
 Annunzio
 Arends
 Ashbrook
 Ashley
 Aspin
 Badillo
 Bafalis

Bennett
 Bergland
 Bevell
 Biaggi
 Biester
 Bingham
 Blackburn
 Blatnik
 Boland
 Brademas
 Brasco
 Bray
 Broomfield
 Brown, Calif.
 Brown, Ohio

Broyhill, N.C.
 Burke, Mass.
 Burlison, Mo.
 Burton
 Carey, N.Y.
 Carney, Ohio
 Chisholm
 Cleveland
 Cohen
 Collier
 Collins, Ill.
 Conable
 Conte
 Corman
 Cotter

Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Wis.
Delaney
Dellenback
Dellums
Derwinski
Devine
Dingell
Drinan
Dulski
du Pont
Edwards, Calif.
Esch
Eshleman
Evins, Tenn.
Fascell
Findley
Fish
Foley
Ford, William D.
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Giaino
Gibbons
Gilman
Goodling
Grasso
Green, Pa.
Griffiths
Grover
Gude
Gunter
Guyer
Hamilton
Hanley
Hanrahan
Hansen, Idaho
Harrington
Hawkins
Hechler, W.Va.
Heckler, Mass.
Heinz
Helstoski

Hillis
Hinshaw
Holifield
Holtzman
Howard
Hungate
Jones, Ala.
Jones, N.C.
Kastenmeier
King
Koch
Kyros
Latta
Leggett
Lehman
Lent
McCollister
McCormack
McDade
McEwen
McFail
McKinney
Macdonald
Madden
Madigan
Mallary
Martin, Nebr.
Martin, N.C.
Matsunaga
Mazzoli
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Moorhead, Pa.
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Nedzi
Nelsen
Obey
O'Hara
O'Neill
Patten
Peyser

Pike
Price, Ill.
Quie
Quillen
Railsback
Randall
Rangel
Reuss
Rhodes
Rinaldo
Robison, N.Y.
Rodino
Roe
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shoup
Smith, Iowa
Smith, N.Y.
Snyder
Stanton, James V.
Stark
Steiger, Wis.
Stratton
Studds
Talcott
Teague, Calif.
Thompson, N.J.
Thone
Tiernan
Vanik
Vigorito
Waldie
Widnall
Wilson, Charles H. Calif.
Wolff
Wydler
Wylie
Wyman
Yates
Young, Fla.
Young, Ill.

NOT VOTING—49

Bell
Bolling
Breaux
Burke, Calif.
Clark
Clawson, Del.
Clay
Conyers
Dent
Diggs
Dorn

Erlenborn
Flood
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating

Kluczynski
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Parris
Patman
Reid
Riegle

Roncallo, N.Y.
 Rooney, N.Y.
 Runnels
 Sandman
 Steele
 Stokes

Sullivan
 Taylor, Mo.
 Teague, Tex.
 Udall
 Veysey
 Walsh

Ware
 Whalen
 Wyatt
 Zwach

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GOLDWATER TO THE AMENDMENT IN THE
 NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. GOLDWATER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Goldwater to the amendment in the nature of a substitute offered by Mr. Staggers: Page 53, after line 11, insert:

"(g) (1) The Administrator shall, upon application by the Governor for any air quality control region for which transportation controls have been imposed in order to attain and maintain the national primary ambient air quality standards by June 1, 1977, extend for two years the date required by any applicable implementation plan for attainment and maintenance of such standards, if the transportation controls for such region require a 20 percent (or greater) reduction in vehicle miles traveled by June 1, 1977, or if he otherwise finds that such controls are impracticable within such time.

(2) The Administrator may, upon application by the Governor for any such region, further extend the date for attainment and maintenance of such standard if he finds that imposition of additional transportation control requirements is impracticable within such time. In no event, however, shall the Administrator permit any extension (A) which allows for attainment of the primary standard less expeditiously than practicable, or (B) which allows a less than 10 percent annual improvement in air quality toward the achievement of such standard, so that protection of the public health may be assured by January 1, 1985."

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. Dingell) reserves a point of order on the amendment.

Mr. GOLDWATER. Mr. Chairman, I offer this amendment [Sec. 202 (a)] in behalf of my colleague, the gentleman from California (Mr. Rees) and myself and other Members.

Approximately 40 metropolitan areas throughout this country have been hit with transportation control plans that work a severe economic hardship on the affected areas and in many instances work at cross-purposes with other Federal programs, such as highway construction.

Now, it seems obvious by the amendments that have been offered, revising and refining various environmental laws that we have enacted throughout the past years, that there is some disenchantment with these environmental laws. It seems that in those days we were moving into new areas, unknown to many, in essence jumping off into space, not knowing where we were to come down.

Now we have experience.

Now we have seen what the Environmental Protection Agency is doing with the laws that were adopted by this Congress, it appears obvious that some refinement needs to be put into effect. To make these laws conform with reality, the social and economic conditions that prevail.

It would also appear to me that if we do not refine some of these laws to make them reasonable, perhaps we run the risk of the total demise of EPA and all our efforts in the area of trying to clean up our environment.

Mr. Chairman, this amendment basically allows, upon request of a Governor of a State, a 2-year delay of implementation of a State's transportation control plan.

This also allows for a further delay but assures at least a 10 percent annual improvement during this additional delay.

The amendment also requires compliance with all health standards, as far as is practical. Now, this amendment I am offering on behalf of myself and my colleague is a reasonable approach to a very unique and difficult problem.

It would not emasculate the intent and purpose of the Clean Air Act. It does not call for the relaxation of the standards.

If adopted, it would avoid severe economic dislocations by assuring that the air quality region affected, must realize a 10-percent annual improvement in air quality each year, with a 100-percent compliance.

I am firmly convinced that in time, an area like Los Angeles can work out its environmental problems. I think that the people of the Los Angeles basin are willing to take every step to get a viable rapid transit system underway. But the people can do nothing, if the heavy hand of the EPA is allowed to destroy their economic livelihood. It is absolutely impossible for a city like Los Angeles, which is almost totally dependent upon the automobile for its transportation, to achieve the standards that it has been ordered to achieve. However, this amendment will make it possible for the people of this area, and other similarly affected air quality regions, to comply within a reasonable time.

The CHAIRMAN. Does the gentleman from Michigan insist upon his point of order?

Mr. DINGELL. Mr. Chairman, I do not insist upon the point of order.

Mr. REES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment does not just affect Los Angeles, but it affects all areas where the EPA has developed a strategy to lower the amount of vehicle miles traveled in that specific jurisdiction.

What this amendment does is to say that if by 1977 when all jurisdictions must comply with the act, if a jurisdiction is forced to lower the vehicle miles traveled by more than 20 percent, the Governor of that State shall, upon application to the EPA, get a 2-year extension for that jurisdiction.

Let me give you just an example. From the figures of the EPA as they affect the Los Angeles basin, if we did everything we are supposed to do in terms of tailpipe emissions and in terms of the things that have already been banned in this bill, like parking surcharges and regulating construction of parking lots and everything else, it would

mean we would still be over 50 percent away from fulfilling the national clean air standards by 1977. It would mean in the Los Angeles basin, of 12 million people, that we would probably have to ban all passenger automobiles for approximately 60 percent of the time during any given year. That is because we would have to lower the vehicle miles traveled.

The agency is well aware of this. The agency sent me this letter which I received yesterday. They stated that the EPA believes that for these communities some kind of legislative relief is in order. They recognize that there has to be some form of relief.

We are certainly not trying to do away with higher standards of air purity, because what the amendment further states is no matter what there has to be at least a 10-percent increase per year in the quality of the air, so that under this bill a city like Los Angeles could have until 1985 to make sure they could adhere to the required clean air standards without a complete economic and social breakdown because of our present total dependency on the passenger automobile. We would, under this amendment have no time necessary to develop a practical alternative to the passenger automobile.

I think this is a very logical approach. I discussed this approach with the EPA.

They felt that this is the type of approach that they might well be recommending next year. I am a little worried about next year, and I think it best to adopt this amendment now to make sure that a community has a better ability to plan ahead in terms of the EPA regulations. Remember, again, this amendment would be triggered only where a community could not comply with the 1977 standards even after decreasing the vehicle miles traveled by 20 percent. I think it is a good amendment. I commend the gentleman from California (Mr. Goldwater) in introducing it, and I would ask for an "aye" vote.

MR. BOLAND. Mr. Chairman, I move to strike the requisite number of words.

I urge support of the amendment sponsored by the gentlemen from California (Mr. Goldwater and Mr. Rees). I believe that it is a logical and commonsense approach to a very difficult problem facing a number of communities in the country that face the imposition of traffic control systems forced upon them by the Environmental Protection Agency.

The EPA plan promulgated for my home city of Springfield, Mass., will create economic havoc for a downtown area that has been completely rebuilt and modernized at a cost of millions of dollars in private and public investment.

The drastic plans for Springfield would close off main street and some 15 side streets to traffic, impose a surcharge on off-street parking, and ban on-street parking within a large periphery of the center city area.

The effects will be to strangle the economy of downtown Springfield. Downtown business firms now contribute a very high ratio of taxes for the city budget.

Mayor William C. Sullivan, the Springfield Chamber of Commerce, and other business organizations all expressed opposition to these EPA proposals and have pleaded for time to study alternative approaches to achieve clean air.

Mr. Chairman, I am pleased that this bill prevents EPA from imposing or requiring the imposition of any surcharges on parking spaces, and requires the Administrator to make a new study and report back to Congress in 6 months, on the merits and demerits of measures to reduce air pollution.

I agree with the position of the gentleman from California (Mr. Moss) in his amendment yesterday, that Congress should take a new look at the EPA clean air recommendations when they are sent to us. Then, and only then, should a legislative decision be made by Congress on the criteria for clean air standards.

It was not the intent of Congress, when it passed the Clean Air Act of 1970, to empower a Federal agency, the EPA, to impose parking taxes or surcharges. Congress did not intend to give EPA tax power. No hearings were held by the House Ways and Means Committee on such taxes when the clean air legislation was debated in Congress in 1970.

Mr. Chairman, for these reasons I supported the amendment of the gentleman from California (Mr. Leggett) on November 30, 1973, to the fiscal year 1974 supplemental appropriations bill.

Finally, Mr. Chairman, I realize that under provisions of the Clean Air Act certain requirements to clean up the air have to be made for the public health and welfare of our citizens. But, in some areas, such as national ambient air quality standards, I think that the measures may be excessive.

Consequently, I joined with many of my colleagues earlier this year in a request to the National Academy of Sciences to provide the Congress with an objective analysis and evaluation of health-related ambient air quality standards for those pollutants associated with auto emissions.

I think that Chairman Staggers and members of the House Interstate and Foreign Commerce Committee, and subcommittee Chairman Paul Rogers and members of his Public Health and Environment Subcommittee should have opportunities to make exhaustive reviews of the National Academy of Science study and the new EPA study, before Congress gives final legislative approval to the specifics on how EPA should administer the Clean Air Act of 1970.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Goldwater) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 202(a).]**

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK TO THE AMENDMENT
IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York to the amendment in the nature of a substitute offered by Mr. Staggers: Page 11 after line 11, section 105, after subsection (c) add the following new subsection:

"(d) Energy conservation plans submitted pursuant to this section shall include proposal to provide for Federally sponsored incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service."

Mr. MURPHY of New York. Mr. Chairman, this amendment [Sec. 105(d)] clarifies further some language that the gentleman from Illinois offered earlier today that was agreed to by the Committee. It very simply calls for federally sponsored incentives for the use of public transportation. This is to the planning section, and requires the submission of a plan to meet the needs of mass transit there is not an appropriation or an authorization implicit in this amendment.

Those Federal subsidies which may be ultimately authorized should go to maintain existing fares, and not to have fares raised throughout the country, on mass transit facilities, or to reduce existing fares and additional expenses incurred because of increased services. These services could support the added costs of extra trains, cars, buses, and parking areas.

I urge support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Murphy) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and on a division (demanded by Mr. Murphy of New York) there were—ayes 45, noes 34.

RECORDED VOTE

Mr. KUYKENDALL. Mr. Chairman, I demand a recorded vote.

A record vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 184, not voting 51, as follows:

[Roll No. 674]

AYES—197

Abzug	Breckinridge	Denholm
Adams	Brinkley	Diggs
Addabbo	Brotzman	Donohue
Alexander	Brown, Calif.	Drinan
Anderson,	Buchanan	Dulski
Calif.	Burke, Mass.	Eckhardt
Anderson, Ill.	Burton	Edwards, Calif.
Andrews, N.C.	Carey, N.Y.	Eilberg
Annunzio	Carney, Ohio	Esch
Ashley	Chisholm	Fascell
Aspin	Cohen	Fish
Badillo	Corman	Flood
Barrett	Cotter	Foley
Bergland	Coughlin	Ford,
Biaggi	Cronin	William D.
Biester	Culver	Fraser
Bingham	Daniels,	Frelinghuysen
Blackburn	Dominick V.	Fulton
Blatnik	Danielson	Fuqua
Boggs	Davis, Ga.	Gaydos
Boland	Davis, S.C.	Gaiimo
Brademas	Delaney	Gibbons
Brasco	Dellums	Gilman

Gonzalez	McKinney	Rostenkowski
Grasso	Macdonald	Roush
Gray	Mailliard	Roybal
Green, Oreg.	Maraziti	Ryan
Green, Pa.	Matsunaga	St Germain
Griffiths	Mazzoli	Sarasin
Grover	Mezvinsky	Sarbanes
Gude	Minish	Schroeder
Gunter	Mink	Seiberling
Hamilton	Mitchell, Md.	Sisk
Hanley	Mitchell, N.Y.	Smith, Iowa
Hanna	Moakley	Smith, N.Y.
Hanrahan	Mollohan	Staggers
Hansen, Wash.	Moorhead, Pa.	Stanton,
Harrington	Mosher	James V.
Hawkins	Moss	Stark
Hechler, W. Va.	Murphy, Ill.	Steelman
Heckler, Mass.	Murphy, N.Y.	Stephens
Helstoski	Nedzi	Stratton
Hicks	Obey	Stuckey
Holifield	O'Brien	Studds
Holtzman	O'Hara	Symington
Horton	O'Neill	Thompson, N.J.
Howard	Owens	Thornton
Johnson, Colo.	Perkins	Tiernan
Jones, Ala.	Peyser	Udall
Jones, Okla.	Pickle	Van Deerlin
Jordan	Pike	Vanik
Karth	Podell	Vigorito
Kastenmeier	Preyer	Waldie
Kazen	Price, Ill.	White
Kemp	Pritchard	Wilson,
Koch	Randall	Charles, Tex.
Kyros	Rangel	Wolf
Leggett	Rees	Wright
Lehman	Reuss	Wylder
Lent	Rinaldo	Yates
Litton	Robison, N.Y.	Yatron
Long, La.	Rodino	Young, Alaska
Long, Md.	Roe	Young, Ga.
McClory	Rogers	Young, Ill.
McCloskey	Roncalio, Wyo.	Young, Tex.
McCormack	Rooney, Pa.	Zablocki
McDade	Rose	
McFall	Rosenthal	

NOES—184

Abdnor	Brown, Mich.	Clancy
Andrews,	Brown, Ohio	Clausen,
N. Dak.	Broyhill, N.C.	Don H.
Archer	Broyhill, Va.	Cleveland
Arends	Burgener	Cochran
Ashbrook	Burke, Fla.	Collier
Bafalis	Burleson, Tex.	Collins, Tex.
Baker	Burlison, Mo.	Conable
Bauman	Butler	Conlan
Beard	Byron	Conte
Bennett	Camp	Crane
Bevill	Carter	Daniel, Dan
Bowen	Casey, Tex.	Daniel, Robert
Bray	Cederberg	W., Jr.
Brooks	Chamberlain	Davis, Wis.
Broomfield	Chappell	de la Garza

Dellenback	King	Ruppe
Dennis	Kuykendall	Ruth
Derwinski	Landgrebe	Satterfield
Devine	Landrum	Scherle
Dickinson	Latta	Schneebeli
Dingell	Lott	Sebelius
Downing	Lujan	Shipley
Duncan	McCollister	Shoup
du Pont	McEwen	Shriver
Edwards, Ala.	McKay	Shuster
Eshleman	McSpadden	Sikes
Evans, Colo.	Madigan	Skubitz
Evins, Tenn.	Mahon	Slack
Findley	Mallary	Snyder
Fisher	Mann	Spence
Flowers	Martin, Nebr.	Stanton.
Flynt	Martin, N.C.	J. William
Fountain	Mathias, Calif.	Steiger, Ariz.
Frenzel	Mathis, Ga.	Steiger, Wis.
Frey	Mayne	Stubblefield
Froehlich	Michel	Symms
Gettys	Milford	Talcott
Ginn	Miller	Taylor, N.C.
Goldwater	Minshall, Ohio	Teague, Calif.
Goodling	Mizell	Thomson, Wis.
Gross	Montgomery	Thone
Guyer	Moorhead,	Towell, Nev.
Haley	Calif.	Treen
Hammer-	Myers	Ullman
schmidt	Natcher	Vander Jagt
Hansen, Idaho	Nelsen	Waggonner
Hastings	Nichols	Wampler
Heinz	Passman	Whitehurst
Henderson	Patten	Whitten
Hillis	Pettis	Widnall
Hinshaw	Poage	Wiggins
Hogan	Powell, Ohio	Williams
Holt	Price, Tex.	Wilson, Bob
Hosmer	Quie	Wilson,
Huber	Quillen	Charles H.,
Hudnut	Railsback	Calif.
Hungate	Rarick	Winn
Hutchinson	Regula	Wylie
Jarman	Rhodes	Wyman
Johnson, Pa.	Roberts	Young, Fla.
Jones, N.C.	Robinson, Va.	Young, S.C.
Jones, Tenn.	Rousselot	Zion
Ketchum	Roy	Zwach

NOT VOTING—51

Armstrong	Forsythe	Melcher
Bell	Gubser	Metcalf
Bolling	Harsha	Mills, Ark.
Breaux	Harvey	Morgan
Burke, Calif.	Hays	Nix
Clark	Hébert	Parris
Clawson, Del	Hunt	Patman
Clay	Ichord	Pepper
Collins, Ill.	Johnson, Calif.	Reid
Conyers	Keating	Riegle
Dent	Kluczynski	Roncallo, N.Y.
Dorn	Madden	Rooney, N.Y.
Erlenborn	Meeds	Runnels

Sandman
Steed
Steele
Stokes

Sullivan
Taylor, Mo.
Teague, Tex.
Veysey

Walsh
Ware
Whalen
Wyatt

So the amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 105(d).]**

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SKUBITZ TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. SKUBITZ. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Skubitz to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

"(9) This subsection shall not apply to the first sale of crude oil described in subsection (e) (2) of this section (relating to stripper wells)."

Mr. SKUBITZ. Mr. Chairman, I submit this amendment **[Sec. 117(a)]** for myself and my colleagues from Kansas (Messrs. Shriver, Winn, Sebelius, and Roy). This amendment is submitted to clarify the real intent of this bill as it applies to stripper wells that were fogged up by the provisions of the "windfall" proviso in this bill. On two occasions this Congress has enacted legislation which exempted stripper well operations from price and allocation controls; once in the passage of the mandatory Emergency Petroleum Act, and second, in the passage of the Alaska pipeline bill.

Let me tell the Members what I mean by a "stripper well." I am not talking about a well that produces 25,000 barrels a day. I am talking about a well that produces 10 barrels or less.

When the regulations were first announced by the executive department, they established a ceiling price on used oil at \$3. The net result was that these little operations could not operate and pay the expenses.

So, under the Emergency Petroleum Act, we exempted these small operations from price and allocation control. When we passed the Alaska pipeline bill, we again exempted the stripped well operations. As a result, hundreds and hundreds of small producers began using pressure methods to pump oil out of the ground. We began getting more oil into the market place.

This bill as a result of the windfall proviso will close down all of the stripper operations.

Mr. Chairman, all this amendment does is to clarify the bill so that the small operators can stay in business and keep producing the oil that we need.

Mr. STAGGERS. Mr. Chairman, I would like to say that I certainly agree with the objectives of the amendment which the gentleman from Kansas has offered, and we will accept it on this side.

Mr. BROWNELL of North Carolina. Mr. Chairman, a short time ago we defeated an amendment which would have exempted producers with a production of 25,000 barrels a day.

As I understand it, the gentleman's amendment only applies to those small wells producing 10 barrels a day?

Mr. SKUBITZ. Ten barrels or less.

Mr. BROYHILL of North Carolina. Ten barrels or less a day.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. Skubitz) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 117(a).]**

AMENDMENT OFFERED BY MR. SATTERFIELD TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. SATTERFIELD. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Satterfield to the amendment in the nature of a substitute offered by Mr. Staggers: On page 13, line 9, after "subsection (a)," insert the words "or which has voluntarily begun conversion to the use of coal during the period 90 days prior to the effective date of this Act and completes such conversion by May 15, 1975."

Mr. SATTERFIELD. Mr. Chairman, this is a simple amendment, and I do not intend to take my full 5 minutes to explain it.

Section 106 of the bill as now drafted gives to the Administrator the authority to prohibit major fuel-burning installations from the burning of natural gas and petroleum and to direct that they convert to coal.

Paragraph (b) of this section provides that no electric powerplant shall be prohibited by the Administrator from burning coal, once it has been ordered to convert until January 1, 1980, subject to certain conditions, those conditions are that the Administrator after notice and hearing approves a plan for that plant, and finds that it will make use of control technology, that it meets the schedule set forth in **section 119** of the Clean Air Act, and that it complies with interim regulations prescribed by the Administrator to insure that it does not contribute a significant risk to public health.

Mr. Chairman, my amendment to this section would extend its coverage to those electric powerplants which have voluntarily begun this conversion within the 90-day period prior to the effective date of this act.

I think it is eminently fair to place those electric powerplants which had the foresight and the initiative to begin this conversion on their own in the same circumstance as powerplants ordered to do as by the Administrator.

Mr. Chairman, I urge the Members to approve my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. Satterfield) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 106(b).]**

The CHAIRMAN. For what purpose does the gentleman from Texas (Mr. Eckhardt), a member of the committee, rise?

Mr. ECKHARDT. Mr. Chairman, I have an amendment at the desk. It is the amendment to page 46, after line 20.

PARLIAMENTARY INQUIRIES

Mr. SARASIN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SARASIN. Mr. Chairman, is there before the House an understanding that there would be a shifting back and forth between members of the committee and Members who are not members of the Committee on Interstate and Foreign Commerce, as far as the offering of amendments is concerned, or is that not actually a rule?

The CHAIRMAN. The Chair will inform the gentleman from Connecticut that the gentleman from Missouri tried to implement such an understanding, and he did not have very much success.

The gentleman from Missouri would have to say that he had less success on this side than he did on that side, but even there he ran into problems.

The Chair felt that he needed to recognize the gentleman from Texas (Mr. Eckhardt) at this time because at one point in time perhaps he should have recognized him instead of another Member who is not a member of the committee.

Mr. GROSS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GROSS. Mr. Chairman, how many amendments remain at the desk?

The CHAIRMAN. An inaccurate count, but the best we can do, is approximately 78.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Eckhardt to the amendment in the nature of a substitute offered by Mr. Staggers: On page 36, insert after line 20 the following new paragraph:

"(8) This subsection shall apply to sales of coal in the same manner as this subsection applies to sales of crude oil, residual fuel oil and refined petroleum products, except that the term "windfall profits" with respect to coal means that profit in excess of the highest average profit, as determined by the Board, obtained by all sellers of coal during any calendar year beginning January 1, 1967 and ending December 31, 1971.

On page 36, line 21, strike out "(8)" and insert in lieu thereof "(9)".

Mr. ECKHARDT. Mr. Chairman, all this does is what was discussed in connection with the striking out of coal in the colloquy between myself and the gentleman from Pennsylvania (Mr. Dent). It provides in the case of coal the standard period of time is the highest of the 5 years. In the case of coal the highest profit of the 5 years as a percentage of sales is 7.5 percent and as a percentage of invest-

ment is 14 percent. With respect to oil, the percentage of sales profit for the average of the 5 years is 7.7 percent. The percentage of investment is 10.6 percent. Therefore, under this amendment, coal would be at about the same level as oil, because we are taking the highest of the 5 years for coal and the average of 5 years for oil. Only 0.2 percent difference.

On the whole, coal would have the advantage, because on the basis of percentage of investment, coal's earnings would have been at 14 percent and oil only 10.6 percent. All this does is make the two comparable by giving coal the highest year among the 5 years.

Mr. SEIBERLING. Mr. Chairman, since I will not have time to offer an amendment before the boom lowers. I would like to ask unanimous consent to extend my remarks at this point in the Record with respect thereto, and then it may be accepted by both sides, and I have copies I will be glad to distribute.

Mr. STAGGERS. Mr. Chairman, we have already acted in the committee on this amendment. I believe, if I had realized what it was, a point of order would have lain against the amendment, but I did not because we acted on it and coal was taken out after it had been argued for some 20, 30, 40 or 50 minutes. This is just to put it back in.

For all the reasons given now, it should be stricken. We are asking for coal to be substituted now in all the plants of this land wherever we can get it. It takes millions of dollars to open up mines. If we are going to sacrifice—

Mr. ECKHARDT. If the Chairman will yield back the last 15 seconds to me, I would say that we did not give any benefit to small oil, and it seems to me large coal should be covered in this very favorable way.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the future energy needs of this country lie in coal. It is very necessary that we devote efforts, and strong efforts, toward development in this direction so that our energy needs can be satisfied and we can remain a strong country.

I strongly oppose the amendment offered by the gentleman from Texas (Mr. Eckhardt).

The CHAIRMAN. The time of the gentleman has expired. All time has expired.

The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment was rejected.

PARLIAMENTARY INQUIRIES

Mr. McCLORY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. McCLORY. Mr. Chairman, I assume that the procedure will be to read each of the amendments that remain at the Clerk's desk?

The CHAIRMAN. The Chair will state to the gentleman from Illinois that the Member having the amendment to offer would have to rise and offer the amendment before it could be read by the Clerk.

Mr. McCLORY. Mr. Chairman, a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his further parliamentary inquiry.

Mr. McCLORY. Mr. Chairman, would it be in order for the Member offering the amendment to revise and extend further remarks in connection with the offering of his amendment?

The CHAIRMAN. All the Chair can say is that he would seek to entertain that.

Mr. McCLORY. A further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. McCLORY. Mr. Chairman, would it be in order at this time to ask unanimous consent that all Members who rise to offer their amendments, that in the interest of their amendment they may have the right to revise and extend their remarks?

The CHAIRMAN. The Chair will state that that would be in order only in the House.

Mr. BUCHANAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BUCHANAN. Mr. Chairman, should a motion be offered that the committee do now rise, and that motion would be accepted by the Committee, would it be possible then in the House for time to be extended or for the earlier motion limiting time to be rescinded?

The CHAIRMAN. The Chair will state to the gentleman from Alabama that the gentleman is asking the Chairman of the Committee of the Whole to rule on a matter that would come before the Speaker of the House of Representatives.

Mr. BUCHANAN. The Chairman cannot answer that according to the rules of the House?

The CHAIRMAN. The Chair will state that the Chair is not in a position to answer for the Speaker.

MOTION OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Alabama (Mr. Buchanan).

The question was taken; and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

Mr. BUCHANAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 104, noes, 280. answered “present” 1, not voting 47, as follows:

[Roll No. 675]

AYES—104

Abdnor
Anderson, Calif.
Anderson, Ill.
Baker

Bauman
Bennett
Bingham
Blackburn

Brooks
Broomfield
Brown, Mich.
Broyhill, Va.

Buchanan
 Burgener
 Burleson, Tex.
 Camp
 Cederberg
 Chamberlain
 Conable
 Conlan
 Coughlin
 Crane
 Daniel, Dan
 Daniel, Robert W., Jr.
 Davis, S.C.
 Davis, Wis.
 de la Garza
 Dennis
 Derwinski
 Dickinson
 Duncan
 Evins, Tenn.
 Flynt
 Fountain
 Frenzel
 Giaimo
 Goodling
 Grasso
 Gross
 Gude
 Haley
 Hammerschmidt
 Hanna

Hanrahan
 Hansen, Idaho
 Hastings
 Hogan
 Holt
 Holtzman
 Howard
 Hutchinson
 Jarman
 Jones, Tenn.
 King
 Lujan
 McClory
 McEwen
 McKinney
 McSpadden
 Mailliard
 Mallary
 Mann
 Martin, Nebr.
 Mathias, Ga.
 Mayne
 Michel
 Mink
 Moorhead, Calif.
 Myers
 Pike
 Poage
 Powell, Ohio
 Price, Tex.
 Rangel

Rarick
 Roberts
 Robinson, Va.
 Robison, N.Y.
 Rousselot
 Roybal
 Ryan
 Satterfield
 Scherle
 Schneebeli
 Shipley
 Shoup
 Spence
 Steelman
 Steiger, Ariz.
 Steiger, Wis.
 Studds
 Symms
 Teague, Tex.
 Thompson, N.J.
 Towell, Nev.
 Vander Jagt
 Waggoner
 Whitten
 Young, Alaska
 Young, Ill.
 Young, S.C.
 Young, Tex.
 Zion
 Zwach

NOES—280

Abzug
 Adams
 Addabbo
 Alexander
 Andrews, N.C.
 Andrews, N. Dak.
 Annunzio
 Archer
 Arends
 Armstrong
 Ashbrook
 Ashley
 Aspin
 Badillo
 Bafalis
 Barrett
 Beard
 Bergland
 Bevill
 Biaggi
 Biester
 Blatnik
 Boggs
 Boland
 Bowen
 Brademas
 Brasco
 Bray
 Breckinridge
 Brinkley
 Brotzman
 Brown, Calif.

Brown, Ohio
 Broyhill, N.C.
 Burke, Fla.
 Burke, Mass.
 Burlison, Mo.
 Burton
 Butler
 Byron
 Carey, N.Y.
 Carney, Ohio
 Carter
 Casey, Tex.
 Chappell
 Chisholm
 Clancy
 Clausen, Don H.
 Cleveland
 Cohen
 Collier
 Collins, Ill.
 Collins, Tex.
 Conte
 Corman
 Cotter
 Cronin
 Culver
 Daniels, Dominick V.
 Danielson
 Davis, Ga.
 Delaney
 Dellenback
 Dellums

Denholm
 Devine
 Diggs
 Dingell
 Donohue
 Downing
 Drinan
 Dulski
 du Pont
 Eckhardt
 Edwards, Ala.
 Edwards, Calif.
 Eilberg
 Esch
 Eshleman
 Evans, Colo.
 Fascell
 Findley
 Fish
 Fisher
 Flood
 Flowers
 Foley
 Ford, William D.
 Fraser
 Frelinghuysen
 Frey
 Froeblich
 Fulton
 Fuqua
 Gaddos
 Gettys

- Gibbons
 Gilman
 Ginn
 Goldwater
 Gonzalez
 Gray
 Green, Oreg.
 Green, Pa.
 Griffiths
 Grover
 Gunter
 Guyer
 Hamilton
 Hanley
 Hansen, Wash.
 Harrington
 Hechler, W. Va.
 Heckler, Mass.
 Heinz
 Helstoski
 Henderson
 Hicks
 Hillis
 Hinshaw
 Holifield
 Horton
 Hosmer
 Huber
 Hudnut
 Hungate
 Johnson, Colo.
 Johnson, Pa.
 Jones, Ala.
 Jones, N.C.
 Jones, Okla.
 Jordan
 Karth
 Kastenmeier
 Kazen
 Kemp
 Ketchum
 Koch
 Kuykendall
 Kyros
 Landgrebe
 Landrum
 Latta
 Leggett
 Lehman
 Lent
 Litton
 Long, La.
 Long, Md.
 Lott
 McClosky
 McCollister
 McCormack
 McDade
 McFall
 McKay
 Macdonald
 Madigan
 Mahon
 Maraziti
 Martin, N.C.
 Mathias, Calif.
 Matsunaga
 Mazzoli
 Mezvinsky
 Milford
 Miller
 Minish
 Minshall, Ohio
 Mitchell, Md.
 Mitchell, N.Y.
 Mizell
 Moakley
 Mollohan
 Montgomery
 Moorhead, Pa.
 Mosher
 Moss
 Murphy, Ill.
 Murphy, N.Y.
 Natcher
 Nedzi
 Nelsen
 Nichols
 Obey
 O'Brien
 O'Hara
 O'Neill
 Owens
 Passman
 Patten
 Pepper
 Perkins
 Pettis
 Peyser
 Pickle
 Podell
 Preyer
 Price, Ill.
 Pritchard
 Quie
 Quillen
 Railsback
 Randall
 Rees
 Regula
 Reuss
 Rhodes
 Rinaldo
 Rodino
 Roe
 Rogers
 Roncalio, Wyo.
 Rooney, Pa.
 Rose
 Rosenthal
 Rostenkowski
 Roush
 Roy
 Ruppe
 Ruth
 St Germain
 Sarasin
 Sarbanes
 Schroeder
 Sebelius
 Seiberling
 Shriver
 Shuster
 Sikes
 Sisk
 Skubitz
 Slack
 Smith, Iowa
 Smith, N.Y.
 Snyder
 Staggers
 Stanton, J. William
 Stanton, James V.
 Stark
 Steed
 Stephens
 Stratton
 Stubblefield
 Stuckey
 Symington
 Talcott
 Taylor, N.C.
 Teague, Calif.
 Thomson, Wis.
 Thone
 Thornton
 Tiernan
 Treen
 Udall
 Ullman
 Van Deerlin
 Vanik
 Vigorito
 Waldie
 Wampler
 White
 Whitehurst
 Widnall
 Wiggins
 Williams
 Wilson, Bob
 Wilson, Charles H., Calif.
 Wilson, Charles, Tex.
 Winn
 Wolff
 Wright
 Wydler
 Wylie
 Wyman
 Yates
 Yatron
 Young, Fla.
 Young, Ga.
 Zablocki

ANSWERED "PRESENT"—1

Cochran

NOT VOTING—47

Bell	Hays	Reid
Bolling	Hébert	Riegle
Breaux	Hunt	Roncallo, N.Y.
Burke, Calif.	Ichord	Rooney, N.Y.
Clark	Johnson, Calif.	Runnels
Clawson, Del.	Keating	Sandman
Clay	Kluczynski	Steele
Conyers	Madden	Stokes
Dent	Meeds	Sullivan
Dorn	Melcher	Taylor, Mo.
Erlenborn	Metcalf	Veysey
Forsythe	Mills, Ark.	Walsh
Gubser	Morgan	Ware
Harsha	Nix	Whalen
Harvey	Parris	Wyatt
Hawkins	Patman	

So the motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SARASIN TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. SARASIN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Sarasin to the amendment in the nature of a substitute offered by Mr. Staggers: Page 44, after line 12, insert the following:

(b) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Page 44, line 13, strike out "(b)" and insert "(d)".

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DINGELL. Mr. Chairman, I make a point of order against the amendment, that the amendment is not germane to the bill.

I make a point of order that the amendment is not germane to the section.

The CHAIRMAN. Does the gentleman from Connecticut desire to be heard on the point of order?

Mr. SARASIN. I do, Mr. Chairman.

Mr. Chairman, as I understand the amendment that I have offered to section 122 of the bill, to which it applies, I believe it is germane and fundamental to the purposes of the bill. It is not a new subject by way of the amendment, and I believe it is germane to the paragraph.

This bill before us, of course, is here with an open rule. I think it is perfectly proper in the amendment I have offered, because of the inconveniences caused by the administration of this act, and I think that it is certainly within the proper place in the amendment in the nature of a substitute as offered by the gentleman from West Virginia (Mr. Staggers) and within my amendment.

Mr. GIBBONS. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. GIBBONS. Mr. Chairman, my point in supporting the point of order raised by the gentleman from Michigan is that the Unemployment Compensation Act is not being amended in any place in this act. The gentleman in the well is attempting to amend the Unemployment Compensation Act.

I happen to be rather familiar with it; it is one of the acts that is within the jurisdiction of the Committee on Ways and Means, and I am sure it is not within the scope of this act at all.

The CHAIRMAN. Does the gentleman from Michigan desire to be heard further?

Mr. DINGELL. I do, Mr. Chairman.

As the Chair will note, the bill in subsection (a) of section 122, which is amended, provides for the President taking certain actions to minimize the impact of the adverse effect of the act. In the second part, the President is directed to perform a study.

As the Chair will note, the amendment offered by my good friend from Connecticut—and I commend him for offering it; it is an amendment that appears to have a great deal of merit—but I would point out it is not an amendment which is germane, because the amendment directs the President and the States to provide for individual unemployed and to make payments for unemployment.

It relates to the eligibility of unemployed for compensation and Federal grants which in turn support the unemployment compensation, and also authorizes appropriations, which is not authorized in the act before us.

It is for those reasons, since some of the provisions are carried elsewhere in the bill or in the section before us, it is obvious the amendment is not germane.

The CHAIRMAN. Does the gentleman from Connecticut desire to be heard further?

Mr. SARASIN. I do, Mr. Chairman.

One line 7, page 44, the first section of paragraph A, it says:

Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment.

It is the responsibility of various agencies. I do not see that this amendment I have offered to authorize the President to make grants to States providing assistance to any individual unemployed, if such unemployment is resulting from the administration and enforcement of this act, is nongermane.

It would seem to me that it certainly is a logical extension of what is in here within **section 122** as it now stands.

The CHAIRMAN. (Mr. Bolling). The Chair is ready to rule.

The Chair will state that the section sought to be amended by the amendment offered by the gentleman from Connecticut (Mr. Sarasin) as he has just read it, directs the President, in carrying out his responsibilities under this act, that he shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this act upon unemployment.

The amendment does not amend another act. It seeks to provide an authorization for a specific approach for the carrying out of the broad authority bestowed upon the President to "minimize" adverse impact of actions taken under the act.

Therefore, the chair overrules the point of order, and under clause 6 of rule XXIII, recognizes the gentleman for 5 minutes.

Mr. SARASIN. I thank the Chairman.

Mr. Chairman, I will say to the Members of this body that because of the colloquy we have just gone through, referring to the point of order and the reading by the Clerk, we have a better understanding of what this amendment actually does.

It is an attempt to provide some assistance for the people who are going to be affected to the greatest extent by the energy shortage. These are the people who need our help; these are the people who will lose their jobs because of the energy shortage and the provisions of this act.

Mr. Chairman, I think it goes without saying that the name of the game, as far as the people of this country are concerned, is jobs. As we look at the situation now, it seems to me that we must realize many people are already unemployed because of shortages in various areas.

For example, in the petrochemical industry alone people are now being laid off. This is one of the industries we have talked about on this floor. The projection is made that with a mere 15 percent reduction in industry's ability to obtain petrochemicals in this country, it will result in a nationwide unemployment figure of 1.6 to 1.8 million jobs.

In the automobile industry jobs have been reduced, and in automobile-related industries jobs have been reduced. Over 5,000 service stations have been closed and that means laying off 25,000 full-time workers and approximately 5,000 part-time workers.

Mr. Chairman, at this time we are all hoping that we will arrive at the point where we will be going back to our home districts during the Christmas season. I suggest that if we try to book an airline flight and check on the schedules, we will find that the airlines have reduced their flights.

We know that flight attendants have been laid off, and we know that pilots have lost their jobs as a result of the energy shortage.

This is one bill that will not cost any money, frankly, if there is no shortage. It is a cushion; it is protection against the inevitable economic dislocations which will result from enforcement and administration of this act.

What we are doing is giving the States the ability to continue to pay unemployment benefits. This Congress has, in prior years, enacted the Emergency Unemployment Act. With this amendment we are extending emergency benefits beyond the period of time set by the States, and beyond the limited resources of the States. We know that the States in this country cannot continue and will not be able to continue financially to take care of all the people who are adversely affected by the energy shortage and this act.

Mr. Chairman, in my district alone, in my State alone, there is one projection that indicates some 35,000 jobs will be lost as a result of the energy shortage. The Connecticut Business & Industry Association has projected 100,000 jobs lost if the fuel shortage reaches only to the extent of 30 percent.

I think my amendment is necessary, in line with many of the other provisions of this bill. With this bill we are trying to solve serious problems as best we can and spread the shortages as thinly as possible, and we are trying to do everything we can do to enforce and administer this act as equitably as possible.

Mr. McCLODY. Mr. Chairman, I rise in support of the amendment offered by my colleague from Connecticut (Mr. Sarasin).

Mr. Chairman, it appears that many of my constituents—including airline pilots and other personnel may lose their jobs—because of consolidation of airline schedules, and the elimination of many scheduled flights of commercial aircraft.

Mr. Chairman, this amendment should help—in a very modest way—to relieve the hardship which these jobless pilots and other airline employees may experience. I urge adoption of the gentleman's amendment.

Mr. FLYNT. Mr. Chairman, I support the amendment offered by the gentleman from Connecticut.

Today in the State of Georgia the Governor of our State is quoted as saying that unless measures are taken to alleviate the present energy fuel shortage, unemployment in our State of Georgia will increase by an estimated 60-percent increase over what it is now.

Mr. Chairman, I support the amendment, and I hope that it will be adopted.

Mr. STUDDS. Mr. Chairman, I support the amendment.

Mr. Chairman, I commend the gentleman for his amendment. I will inform the gentleman that, at the appropriately chaotic time, I intend to offer an amendment to restrict the exportation of petroleum, coal, and petrochemicals, which is precisely the point the gentleman made.

Mr. HECHLER of West Virginia. Mr. Chairman, I support the amendment of the gentleman from Massachusetts (Mr. Studds) which strengthens the limitation on exports of coal. As I testified before the Committee on Interstate and Foreign Commerce, almost 10 percent of the coal produced domestically is now exported. Out of a total production of less than 600 million tons of coal in 1972, 56 million

tons were exported. This is high-grade, low-ash, low-sulfur coal which is largely "metallurgical" coal used in the manufacture of steel. While we are exporting these vast tonnages of coal—86 percent of which comes from underground mines—the pressure is on from the coal industry to strip mine additional coal which is raping and ravaging our soil, forests, and land while polluting our streams.

Mr. Chairman, because we are exporting coal to Canada where it is used to generate electricity, and importing oil from Canada, the bill provides that we take into account these "historical trading relations." I am pleased to support the additional limitation on coal exports provided in the pending amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. Sarasin) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken, and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FLYNT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 311, noes 73, not voting 48, as follows:

[Roll No. 676]

AYES—311

Abdnor	Broomfield	Delaney
Abzug	Brozman	Dellenback
Adams	Brown, Calif.	Dellums
Addabbo	Brown, Ohio	Denholm
Anderson, Calif.	Broyhill, Va.	Derwinski
Anderson, Ill.	Buchanan	Diggs
Andrews, N. Dak.	Burke, Mass.	Donohue
Annunzio	Burlison, Mo.	Downing
Arends	Burton	Drinan
Armstrong	Byron	Dulski
Ashley	Carney, Ohio	Duncan
Aspin	Carter	du Pont
Badillo	Chisholm	Eckhardt
Baker	Clancy	Edwards, Ala.
Barrett	Clausen, Don. H.	Edwards, Calif.
Bauman	Cleveland	Eilberg
Bennett	Cochran	Esch
Bergland	Cohen	Eshleman
Bevill	Collier	Evans, Colo.
Biaggi	Collins, Ill.	Evins, Tenn.
Biester	Conlan	Fascell
Bingham	Conte	Findley
Blackburn	Cotter	Fish
Blatnik	Coughlin	Flood
Boggs	Crane	Flowers
Boland	Cronin	Flynt
Bowen	Culver	Foley
Brademas	Daniel, Dan	Ford, William D.
Brasco	Daniels, Dominick V.	Forsythe
Breckinridge	Davis, Ga.	Fraser
Brinkley	Davis, S.C.	Frelinghuysen
Brooks	de la Garza	Frenzel

Frey	Long, Md.	Randall
Froehlich	McClory	Rangel
Fulton	McCloskey	Rarick
Fuqua	McCollister	Rees
Gaydos	McCormack	Regula
Gettys	McDade	Reid
Giaimo	McFall	Reuss
Gibbons	McKay	Rhodes
Gilman	McKinney	Rinaldo
Ginn	McSpadden	Roberts
Grasso	Macdonald	Robison, N.Y.
Gray	Madigan	Rodino
Green, Oreg.	Mailliard	Roe
Green, Pa.	Mallary	Rogers
Grover	Maraziti	Roncalio, Wyo.
Gude	Martin, N.C.	Rooney, Pa.
Gunter	Mathias, Calif.	Rosenthal
Guyer	Mathis, Ga.	Rostenkowski
Hamilton	Matsunaga	Roush
Hammerschmidt	Mazzoli	Roy
Hanley	Mezvinsky	Roybal
Hanna	Milford	Ryan
Hanrahan	Miller	St Germain
Hansen, Wash.	Minish	Sarasin
Harrington	Mink	Sarbanes
Hawkins	Minshall, Ohio	Scherle
Hechler, W.Va.	Mitchell, Md.	Schroeder
Heckler, Mass.	Mitchell, N.Y.	Seiberling
Heinz	Mizell	Shipley
Helstoski	Moakley	Shriver
Hicks	Mollohan	Shuster
Hillis	Moorhead, Pa.	Sikes
Hinshaw	Mosher	Sisk
Hogan	Moss	Skubitz
Holifield	Murphy, Ill.	Slack
Holt	Murphy, N.Y.	Smith, Iowa
Holtzman	Myers	Smith, N.Y.
Horton	Natcher	Staggers
Hosmer	Nedzi	Stanton, J. William
Howard	Nelsen	Stanton, James V.
Huber	Nichols	Stark
Hudnut	Obey	Steed
Hungate	O'Brien	Steelman
Jarman	O'Hara	Steiger, Wis.
Johnson, Colo.	O'Neill	Stephens
Johnson, Pa.	Owens	Stubblefield
Jones, Ala.	Passman	Stuckey
Jones, Okla.	Patten	Studds
Jones, Tenn.	Pepper	Symington
Jordan	Perkins	Talcott
Karth	Pettis	Teague, Calif.
Kastenmeier	Peyser	Thompson, N.J.
Kemp	Pickle	Thomson, Wis.
Ketchum	Pike	Thone
Koch	Poage	Thornton
Kuykendall	Podell	Tiernan
Kyros	Powell, Ohio	Towell, Nev.
Landrum	Preyer	Treen
Latta	Price, Ill.	Udall
Leggett	Price, Tex.	Van Deerlin
Lehman	Pritchard	Vanik
Lent	Quie	Vigorito
Litton	Quillen	Waldie
Long, La.	Railsback	Wampler

White	Winn	Young, Ga.
Whitehurst	Wolff	Young, Ill.
Whitten	Wright	Young, S.C.
Widnall	Wydler	Young, Tex.
Wiggins	Wyman	Zablocki
Wilson, Bob	Yates	Zion
Wilson, Charles H., Calif.	Yatron	Zwach
Wilson, Charles, Tex.	Young, Alaska	

NOES—73

Alexander	Dickinson	Montgomery
Andrews, N.C.	Dingell	Moorhead, Calif.
Archer	Fisher	Robinson, Va.
Ashbrook	Fountain	Rose
Bafalis	Goldwater	Rousselot
Beard	Gonzalez	Ruppe
Bray	Goodling	Ruth
Brown, Mich.	Gross	Satterfield
Broyhill, N.C.	Haley	Schneebeli
Burke, Fla.	Hansen, Idaho	Sebelius
Burleson, Tex.	Hastings	Shoup
Butler	Henderson	Snyder
Camp	Hutchinson	Spence
Casey, Tex.	Jones, N.C.	Steiger, Ariz.
Cederberg	Kazen	Stratton
Chamberlain	King	Symms
Chappell	Landgrebe	Taylor, N.C.
Collins, Tex.	Lott	Teague, Tex.
Conable	Lujan	Ullman
Corman	McEwen	Vander Jagt
Daniel, Robert W., Jr.	Mahon	Waggoner
Danielson	Mann	Wylie
Davis, Wis.	Martin, Nebr.	Young, Fla.
Dennis	Mayne	
Devine	Michel	

NOT VOTING—48

Bell	Harvey	Patman
Bolling	Hays	Riegle
Breaux	Hébert	Roncallo, N.Y.
Burgener	Hunt	Rooney, N.Y.
Burke, Calif.	Ichord	Runnels
Carey, N.Y.	Johnson, Calif.	Sandman
Clark	Keating	Steele
Clawson, Del.	Kluczynski	Stokes
Clay	Madden	Sullivan
Conyers	Meeds	Taylor, Mo.
Dent	Melcher	Versey
Dorn	Metcalf	Walsh
Erlenborn	Mills, Ark.	Ware
Griffiths	Morgan	Whalen
Gubser	Nix	Williams
Harsha	Parris	Wyatt

So the amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 122.]**

The vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. SEIBERLING. Mr. Chairman, I offered an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Seiberling to the amendment in the nature of a substitute offered by Mr. Staggers: Section 105(c), page 11, line 11, following "thereof" strike the period and insert the following: "and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply groceries or goods and services of a convenience nature during times of day other than conventional daytime working hours."

Mr. SEIBERLING. Mr. Chairman, the purpose of this amendment [Sec. 105(a)] is to prevent discrimination against businesses which operate at hours other than 9 a.m. to 5 p.m. Monday through Friday. Any plan under the act which would set specified hours for businesses could put many of these establishments out of business entirely. Many types of businesses derive a significant portion of their sales from 5 p.m. to midnight, or on weekends. Delicatessens and small grocery stores fall into the group of businesses which would be immediately threatened by a requirement to close at a set time such as 6 p.m. All these businesses are willing to bear a fair share of the burdens of the energy shortage. If the Administrator of the FEA, determines that all businesses should work fewer hours, then the individual establishments should be given the opportunity to decide what hours they will operate. The retail establishments which depend largely on after-normal hour trade should not be discriminated against by any action or plan under this act. They should be treated equitably, and not have to suffer undue hardships because of their hours of business.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Seiberling) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and on a division (demanded by Mr. Seiberling) there were—ayes 55, noes 69.

RECORDED VOTE

Mr. DERWINSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 301, noes 60, answered "present" 21, not voting 50, as follows:

[Roll No. 677]

AYES—301

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.

Annunzio
Archer
Ashbrook
Ashley
Aspin
Badillo
Baker
Barrett

Bauman
Bennett
Bergland
Bevill
Biaggi
Blester
Bingham
Blackburn

Blatnik	Flood	Landgrebe
Boggs	Flowers	Landrum
Boland	Flynt	Leggett
Bowen	Foley	Lehman
Brademas	Ford, William D.	Lent
Brasco	Fountain	Litton
Breckinridge	Fraser	Long, La.
Brinkley	Frey	Long, Md.
Brooks	Fulton	McClory
Broomfield	Fuqua	McCloskey
Brotzman	Gaydos	McCollister
Brown, Calif.	Gettys	McCormack
Brown, Mich.	Giaimo	McDade
Broyhill, Va.	Gibbons	McFall
Buchanan	Gilman	McKay
Burke, Fla.	Ginn	McKinney
Burke, Mass.	Gonzalez	McSpadden
Burton	Grasso	Madden
Byron	Gray	Madigan
Camp	Green, Oreg.	Mahon
Carey, N.Y.	Green, Pa.	Mailliard
Carney, Ohio	Gross	Mallary
Carter	Grover	Mann
Chappell	Gunter	Maraziti
Chisholm	Guyer	Mathias, Calif.
Clancy	Haley	Matsunaga
Clausen, Don H.	Hamilton	Mezvinsky
Cleveland	Hammerschmidt	Milford
Cohen	Hanley	Minish
Collins, Ill.	Hanna	Mitchell, N.Y.
Collins, Tex.	Hanrahan	Mizell
Conable	Hansen, Wash.	Moakley
Conte	Harrington	Mollohan
Corman	Hastings	Montgomery
Cotter	Hawkins	Moorhead, Calif.
Coughlin	Hechler, W. Va.	Moorhead, Pa.
Cronin	Heckler, Mass.	Murphy, Ill.
Culver	Heinz	Murphy, N.Y.
Daniel, Dan	Helstoski	Myers
Daniel, Robert W., Jr.	Hicks	Natcher
Daniels, Dominick V.	Hillis	Nedzi
Danielson	Hinshaw	Nichols
Davis, Ga.	Hogan	Obey
Davis, S.C.	Holifield	O'Brien
de la Garza	Holt	O'Hara
Delaney	Holtzman	O'Neill
Dellenback	Horton	Owens
Dellums	Hosmer	Passman
Denholm	Howard	Pepper
Dennis	Hudnut	Perkins
Diggs	Hungate	Peyser
Dingell	Jarman	Pickle
Donohue	Johnson, Colo.	Pike
Downing	Johnson, Pa.	Poage
Drinan	Jones, N.C.	Podell
Dulski	Jones, Okla.	Powell, Ohio
Eckhardt	Jones, Tenn.	Preyer
Edwards, Calif	Jordan	Price, Ill.
Eilberg	Karth	Price, Tex.
Eshleman	Kastenmeier	Pritchard
Evins, Tenn.	Kazen	Quie
Fascell	Kemp	Randall
Fish	Koch	Rangel
Fisher	Kyros	Rarick

Rees
Regula
Reid
Reuss
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Sieberling
Shipley

Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Symington
Symms
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.

Udall
Ullman
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
White
Whitehurst
Whitten
Widnall
Wilson, Bob
Wilson, Charles H.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion

NOES—60

Abdnor
Arends
Bafalis
Bray
Brown, Ohio
Broghill, N.C.
Burleson, Tex.
Burlison, Mo.
Butler
Casey, Tex.
Cederberg
Chamberlain
Cochran
Collier
Davis, Wis.
Devine
Dickinson
Duncan
Edwards, Ala.
Esch

Evans, Colo.
Findley
Forsythe
Frelinghuysen
Frenzel
Goodling
Gude
Hansen, Idaho
Henderson
Jones, Ala.
Ketchum
King
Kuykendall
Latta
Lujan
Macdonald
Martin, Nebr.
Martin, N.C.
Mayne
Mazzoli

Michel
Miller
Minshall, Ohio
Nelsen
Patten
Quillen
Rhodes
Schneebeli
Shoup
Smith, N.Y.
Snyder
Spence
Steiger, Wis.
Talcott
Teague, Calif.
Treen
Wydler
Young, Alaska
Young, S.C.
Zwach

ANSWERED "PRESENT"—21

Armstrong
Beard
Conlan
Crane
Derwinski
du Pont
Froehlich

Huber
Hutchinson
Lott
McEwen
Mathis, Ga.
Mink
Moss

Pettis
Rousselot
Ruppe
Ruth
Sebelius
Van Deerlin
Wiggins

NOT VOTING—50

Bell	Hays	Riegel
Bolling	Hébert	Roncallo, N.Y.
Breaux	Hunt	Rooney, N.Y.
Burgener	Ichord	Runnels
Burke, Calif.	Johnson, Calif.	Sandman
Clark	Keating	Sikes
Clawson, Del.	Kluczynski	Steele
Clay	Meeds	Stokes
Conyers	Melcher	Sullivan
Dent	Metcalfe	Taylor, Mo.
Dorn	Mills, Ark.	Veysey
Erlenborn	Morgan	Walsh
Goldwater	Mosher	Ware
Griffiths	Nix	Whalen
Gubser	Parris	Williams
Harsha	Patman	Wyatt
Harvey	Railsback	

So the amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 105(c).]**

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TREEN TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. TREEN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Treen to the amendment in the nature of a substitute offered by Mr. Staggers: Page 4, line 11, strike the word "agriculture," and in lieu thereof insert the words "agricultural operations as defined in paragraph (1) (C) of subsection (b) of this section."

Page 10, line 25, strike the word "agriculture," and in lieu thereof insert the words "agricultural operations as defined in paragraph (1) (C) of subsection (b) of section 4 of the Emergency Petroleum Allocation Act of 1973,".

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, is this the amendment which includes fishermen in the definition of agriculture in this bill?

The CHAIRMAN. That is not a parliamentary inquiry.

The question is on the amendment offered by the gentleman from Louisiana (Mr. Treen) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken, and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DERWINSKI. Mr. Chairman, I demand a recorded vote.
A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 332, noes 19, present 29, not voting 52, as follows:

[Roll No. 678]

AYES—332

Abdnor	Cohen	Gettys
Abzug	Collier	Giaimo
Adams	Collins, Ill.	Gibbons
Addabbo	Collins, Tex.	Gilman
Alexander	Conlan	Ginn
Anderson, Calif.	Conte	Gonzalez
Anderson, Ill.	Corman	Goodling
Andrews, N.C.	Cotter	Grasso
Andrews, N. Dak.	Coughlin	Green, Oreg.
Annunzio	Crane	Green, Pa.
Archer	Cronin	Gross
Arends	Culver	Grover
Armstrong	Daniel, Dan	Gude
Ashbrook	Daniel, Robert W., Jr.	Gunter
Ashley	Daniels Dominick V.	Guyer
Aspin	Davis, Ga.	Haley
Badillo	Davis, S.C.	Hamilton
Bafalis	Davis, Wis.	Hammerschmidt
Bauman	de la Garza	Hanley
Bennett	Dellenback	Hanrahan
Bergland	Dellums	Hansen, Idaho
Bevill	Denholm	Hansen, Wash.
Biaggi	Dennis	Harrington
Biester	Derwinski	Hastings
Bingham	Devine	Hawkins
Blatnik	Dickinson	Hechler, W. Va.
Boggs	Diggs	Heckler, Mass.
Boland	Dingell	Heinz
Bowen	Donohue	Henderson
Brademas	Downing	Hicks
Brasco	Drinan	Hillis
Bray	Dulski	Hinshaw
Breckinridge	Duncan	Hogan
Brinkley	du Pont	Holifield
Brooks	Eckhardt	Holt
Broomfield	Edwards, Ala.	Horton
Brotzman	Edwards, Calif.	Howard
Brown, Calif.	Eilberg	Hudnut
Brown, Mich.	Esch	Hungate
Broyhill, N.C.	Evans, Colo.	Jarman
Broyhill, Va.	Evins, Tenn.	Johnson, Colo.
Buchanan	Fascell	Johnson, Pa.
Burke, Fla.	Findley	Jones, N.C.
Burke, Mass.	Fish	Jones, Okla.
Burlison, Mo.	Fisher	Jones, Tenn.
Burton	Flood	Jordan
Butler	Flowers	Karth
Byron	Flynt	Kastenmeier
Camp	Foley	Kazen
Carney, Ohio	Ford, William D.	Kemp
Carter	Forsythe	Ketchum
Casey, Tex.	Fountain	Koch
Cederberg	Fraser	Kuykendall
Chappell	Frelinghuysen	Kyros
Chisholm	Frey	Landgrebe
Clancy	Froehlich	Landrum
Clausen, Don H.	Fulton	Latta
Cleveland	Fuqua	Leggett
Cochran	Gaydos	Lehman

Litton	Powell, Ohio	Steed
Long, La.	Preyer	Steelman
Long, Md.	Price, Ill.	Steiger, Ariz.
Lott	Price, Tex.	Steiger, Wis.
Lujan	Pritchard	Stephens
McCloskey	Quie	Stratton
McClister	Quillen	Stubblefield
McCormack	Railsback	Stuckey
McDade	Randall	Studds
McFall	Rangel	Symington
McKay	Rarick	Symms
McSpadden	Rees	Talcott
Madden	Regula	Taylor, N.C.
Madigan	Reid	Teague, Calif.
Mahon	Rhodes	Teague, Tex.
Mann	Rinaldo	Thompson, N.J.
Maraziti	Robinson, Va.	Thomson, Wis.
Martin, Nebr.	Robison, N.Y.	Thone
Martin, N.C.	Rodino	Thornton
Mathias, Calif.	Roe	Tiernan
Matsunaga	Rogers	Towell, Nev.
Mayne	Roncalio, Wyo.	Treen
Mezvinsky	Rooney, Pa.	Udall
Minish	Rose	Ullman
Mitchell, N.Y.	Rosenthal	Van Deerlin
Mizell	Rostenkowski	Vander Jagt
Moakley	Roush	Vanik
Montgomery	Rousselot	Vigorito
Moorhead, Calif.	Roy	Waggonner
Moorhead, Pa.	Ruppe	Waldie
Mosher	Ryan	Wampler
Murphy, Ill.	St Germain	White
Murphy, N.Y.	Sarasin	Whitehurst
Myers	Sarbanes	Whitten
Natcher	Satterfield	Wilson, Bob
Nedzi	Scherle	Wilson, Charles H., Calif.
Nelsen	Schroeder	Wilson, Charles, Tex.
Obey	Sebelius	Winn
O'Brien	Seiberling	Wolff
O'Hara	Shipley	Wright
O'Neill	Shoup	Wylie
Owens	Shriver	Wyman
Parris	Shuster	Yatron
Passman	Sisk	Young, Alaska
Pepper	Slack	Young, Fla.
Perkins	Smith, Iowa	Young, Ill.
Peyser	Snyder	Young, S.C.
Pickle	Spence	Young, Tex.
Pike	Staggers	Zablocki
Poage	Stanton, J. William	Zion
Podell	Stanton, James V.	Zwach
	Stark	

NOES—19

Barrett	Macdonald	Reuss
Brown, Ohio	Mallary	Roberts
Burleson, Tex.	Mazzoli	Wydler
Danielson	Miller	Yates
Helstoski	Minshall, Ohio	Young, Ga.
Hosmer	Mollohan	
Jones, Ala.	Patten	

ANSWERED "PRESENT"—29

Baker	Holtzman	Mitchell, Md.
Beard	Huber	Moss
Blackburn	Hutchinson	Pettis
Carey, N.Y.	Lent	Roybal
Chamberlain	McEwen	Ruth
Conable	McKinney	Schneebeli
Delaney	Mailliard	Skubitz
Eshleman	Mathis, Ga.	Smith, N.Y.
Frenzel	Milford	Wiggins
Hanna	Mink	

NOT VOTING—52

Bell	Hays	Riegle
Bolling	Hébert	Roncallo, N.Y.
Breaux	Hunt	Rooney, N.Y.
Burgener	Ichord	Runnels
Burke, Calif.	Johnson, Calif.	Sandman
Clark	Keating	Sikes
Clawson, Del.	King	Steele
Clay	Kluczynski	Stokes
Conyers	Meeds	Sullivan
Dent	Melcher	Taylor, Mo.
Dorn	Metcalf	Veysey
Erlenborn	Michel	Walsh
Goldwater	Mills, Ark.	Ware
Gray	Morgan	Whalen
Griffiths	Nichols	Widnall
Gubser	Nix	Williams
Harsha	Patman	Wyatt
Harvey		

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. STUDDS TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. STUDDS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment **[Sec. 123]** offered by Mr. Studds to the amendment in the nature of a substitute offered by Mr. Staggers: On page 45, line 2, strike the period and insert in lieu thereof: “; provided, that the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States.”

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. Studds) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MATHIS of Georgia. Mr. Chairman, I demand a recorded vote.
A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 327, noes 27, answered “present” 25, not voting 53, as follows:

[Roll No. 679]

AYES—327

Abdnor	Cochran	Grasso
Abzug	Cohen	Gray
Adams	Collier	Green, Oreg.
Addabbo	Collins, Ill.	Green, Pa.
Alexander	Collins, Tex.	Gross
Anderson, Calif.	Conable	Grover
Anderson, Ill.	Conlan	Gunter
Andrews, N.C.	Conte	Guyer
Andrews, N. Dak.	Cotter	Haley
Annunzio	Coughlin	Hamilton
Archer	Cronin	Hammerschmidt
Arends	Culver	Hanley
Ashbrook	Daniel, Dan	Hanrahan
Aspin	Daniel, Robert W., Jr.	Harrington
Badillo	Daniels, Dominick V.	Hastings
Bafalis	Davis, Ga.	Hechler, W. Va.
Baker	Davis, S.C.	Heckler, Mass.
Barrett	Davis, Wis.	Heinz
Bauman	de la Garza	Helstoski
Beard	Delaney	Henderson
Bennett	Dellums	Hicks
Bergland	Denholm	Hinshaw
Biaggi	Dennis	Hogan
Biester	Devine	Holifield
Bingham	Dickinson	Holt
Blatnik	Diggs	Holtzman
Boggs	Donohue	Horton
Boland	Downing	Howard
Bowen	Drinan	Huber
Brademas	Dulski	Hudnut
Brasco	Duncan	Hungate
Bray	du Pont	Hutchinson
Breckinridge	Eilberg	Jarman
Brinkley	Esch	Johnson, Colo.
Broomfield	Eshleman	Johnson, Pa.
Brotzman	Evans, Colo.	Jones, N.C.
Brown, Calif.	Evins, Tenn.	Jones, Okla.
Brown, Mich.	Fascell	Jordan
Broyhill, N.C.	Fish	Karth
Broyhill, Va.	Fisher	Kastenmeier
Buchanan	Flood	Kazen
Burgener	Flowers	Kemp
Burke, Fla.	Flynt	Ketchum
Burke, Mass.	Foley	Koch
Burleson, Tex.	Ford, William D.	Kuykendall
Burlison, Mo.	Forsythe	Kyros
Butler	Fountain	Landgrebe
Byron	Frelinghuysen	Landrum
Camp	Frey	Latta
Carey, N.Y.	Froehlich	Leggett
Carney, Ohio	Fulton	Lehman
Carter	Fuqua	Lent
Cederberg	Gaydos	Litton
Chamberlain	Gettys	Long, La.
Chappell	Giaimo	Lott
Chisholm	Gilman	Lujan
Clancy	Ginn	McClory
Clausen, Don H.	Gonzalez	McCloskey
Cleveland	Goodling	McCollister

McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mazzoli
Mezvinsky
Michel
Miller
Minish
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike

Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quillen
Railsback
Randall
Rangel
Rarick
Regula
Reid
Rhodes
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Snyder
Spence
Staggers

Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Symington
Talcott
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
White
Whitehurst
Whitten
Wilson, Charles, Tex.
Winn
Wolf
Wright
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion

NOES—27

Armstrong
Ashley
Bevill
Brown, Ohio
Burton
Dellenback
Dingell
Eckhardt
Findley

Fraser
Frenzel
Gude
Hansen, Idaho
Hosmer
Jones, Ala.
Jones, Tenn.
Mayne
Nelsen

Passman
Poage
Quie
Rees
Reuss
Smith, Iowa
Steelman
Young, S.C.
Zwach

ANSWERED "PRESENT"—25

Blackburn	Hillis	Roybal
Casey, Tex.	Mailliard	Ruth
Corman	Mathis, Ga.	Schneebeli
Crane	Matsunaga	Symms
Danielson	Milford	Teague, Calif.
Derwinski	Mink	Wiggins
Edwards, Ala.	Moss	Wilson, Bob
Edwards, Calif.	Robison, N.Y.	Wilson, Charles H., Calif.
Hanna		

NOT VOTING—53

Bell	Harvey	Patman
Bolling	Hawkins	Riegle
Breaux	Hays	Roncallo, N.Y.
Brooks	Hébert	Rooney, N.Y.
Burke, Calif.	Hunt	Runnels
Clark	Ichord	Sandman
Clawson, Del	Johnson, Calif.	Steele
Clay	Keating	Stokes
Conyers	King	Sullivan
Dent	Kluczynski	Taylor, Mo.
Dorn	Long, Md.	Veysey
Erlenborn	McEwen	Walsh
Gibbons	Meeds	Ware
Goldwater	Melcher	Whalen
Griffiths	Metcalf	Widnall
Gubser	Mills, Ark.	Williams
Hansen, Wash.	Morgan	Wyatt
Harsha	Nix	

So the amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 123.]**

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. COHEN TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. COHEN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Cohen to the amendment in the nature of a substitute offered by Mr. Staggers:

The text of the amendments follows:

Sec. 125. HOMEOWNERS' ENERGY CONSERVATION LOAN PROGRAM

(a) AUTHORIZATION OF LOANS.—

(1) In order to carry out the purpose of this section the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make loans as provided in this section to individuals and families owning and occupying one- to four-family residential structures, and to other owners of residential structures of any type, to assist them in purchasing and installing qualified insulative materials and/or qualified heating equipment (as defined in section 4) in such structures.

(2) A loan made under this subsection with respect to any residential structure shall—

(A) be in such amount as may be necessary to meet the maximum desirable insulation standards for controlling heat loss, cooling loss, and infiltration and/or to reach the maximum desirable heating efficiency in the case of structures of the size and type involved, taking into account the climatic, meteorological, and related conditions prevailing in the region where the structure is located, as estab-

lished by the Secretary in regulations prescribed by him and in effect at the time of the loan;

(B) bear interest at the rate of 5 percent per annum on the outstanding principal balance;

(C) have a maturity not exceeding ten years; and

(D) be subject to such additional terms, conditions, and provisions as the Secretary may impose in order to assure that the purpose of this Act is effectively carried out.

(3) Each application for a loan under this subsection shall be accompanied by detailed plans for the purchase and installation of specified insulative materials and an estimate of the costs involved. No such application shall be approved unless the Secretary finds that the proposed insulation is reasonable and will be effective, that the insulation will not be of elaborate or extravagant design or materials.

(B) DEFINITIONS

(1) **QUALIFIED INSULATIVE MATERIALS.**—For purposes of this section, the term “qualified insulative materials” means any material or item which, as determined by the Secretary after consultation with the National Bureau of Standards, is capable of achieving a significant reduction in heat loss, cooling loss, or infiltration when properly installed in a residential structure under the prevailing climatic, meteorological, and related conditions. Such term includes (without being limited to) glass and plastic storm windows and doors, flexible and fill insulation, blown insulation, and any other material or item which is approved by the Secretary as being useful and effective for the insulation of ceilings, floors, walls, windows, or doors.

(2) **QUALIFIED HEATING EQUIPMENT.**—For purposes of this section, the term “qualified heating equipment” means any item, fixture, or equipment which, as determined by the Secretary after consultation with the National Bureau of Standards, is capable of and designed for improving the operating efficiency of a heating plant in a residential structure. Such term includes (without being limited to) heat exchangers, ducting, and any other item, fixture, or equipment which is approved by the Secretary as being useful and effective for improving the operating efficiency of a heating plant in a residential structure.

(C) DISSEMINATION OF INFORMATION

The Secretary shall provide to any person upon his or its request (without regard to whether or not such person is making or proposes to make application for a loan under section 3) full, complete, and current information concerning recommended standards and types of insulative materials and heating equipment appropriate for use in residential structures of varying sizes and types and in various regions of the country.

(d) In the performance of, and with respect to, the functions, powers, and duties vested in him by this Act, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 402 (except subsection (a) and (c) (2) of the Housing Act of 1950.

(E) APPROPRIATIONS; REVOLVING FUND

There is authorized to be appropriated the sum of \$10,000,000 to provide an initial amount for the program under this Act, and such additional sums thereafter as may be necessary to carry out such program. Amounts appropriated pursuant to this section shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in carrying out this Act.

Sec. 126. TAX INCENTIVES FOR ENERGY-CONSERVING HOME IMPROVEMENTS

(a) (1) part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

“Sec. 189. EXPENDITURES FOR HOME INSULATION AND HEATING EQUIPMENT

“(a) **IN GENERAL.**—There shall be allowed as a deduction any expenditures made by the taxpayer during the taxable year for the purchase and installation, in his home or in any other residential structure owned by him, of qualified insulative materials or qualified heating equipment.

“(b) **DEFINITIONS.**—For purposes of this section—

"(1) **QUALIFIED INSULATIVE MATERIALS.**—The term 'qualified insulative materials' means any material or item which, as determined under regulations prescribed by the Secretary or his delegate in accordance with standards developed and prescribed by the National Bureau of Standards, is capable of achieving a significant reduction in heat loss, cooling loss, or infiltration when properly installed in a residential structure under the prevailing climatic, meteorological, and related conditions. Such term includes (without being limited to) glass and plastic storm windows and doors, flexible and fill insulation, blown insulation, and any other material or item which (under such regulations or standards) may be useful and effective for the insulation of ceilings, floors, walls, windows, or doors.

"(2) **QUALIFIED HEATING EQUIPMENT.**—The term 'qualified heating equipment' means any item, fixture, or equipment which, as determined under regulations prescribed by the Secretary or his delegate in accordance with standards developed and prescribed by the National Bureau of Standards, is capable of and designed for improving the operating efficiency of a heating plant in a residential structure. Such term includes (without being limited to) heat exchangers, ducting, and any other item, fixture, or equipment which (under such regulations or standards) may be useful and effective in improving the operating efficiency of such a plant.

"(c) **REGULATIONS.**—The Secretary or his delegate shall prescribe such regulations as may be necessary to assure that insulation and heating equipment with respect to which deductions are allowed under this section are effective for their intended purposes and are not of elaborate or extravagant design or materials."

(2) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 189. Expenditures for Home Insulation and Heating Equipment."

(b) The amendments made by the first section of this Act shall apply only with respect to expenditures made after December 31, 1972, in taxable years ending after such date.

Mr. COHEN (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with, and that it be printed in the Record. I will then explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

Mr. SYMMS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk continued to read the amendment.

Mr. COHEN. (during the reading). Mr. Chairman, I renew my unanimous-consent request that the further reading of the amendment be dispensed with, and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

Mr. SCHERLE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk continued to read the amendment.

The CHAIRMAN. Under rule XXIII, clause 6, the gentleman from Maine will be recognized for 5 minutes.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

Mr. BROXHILL of North Carolina. Mr. Chairman, I am going to reserve a point of order also.

Mr. COHEN. Mr. Chairman, this amendment, briefly, establishes a direct low-interest loan program for homeowners to make necessary improvements to their heating units and to make purchases for other energy conservation items such as storm doors, windows, and insulation materials.

The rationale for this amendment—and I might note that I do not intend to offer an additional amendment which would provide for tax deductions as I am satisfied that it would not be germane to this bill—the rationale for this amendment is that heating our residential buildings now accounts for 11 to 12 percent of our national energy consumption. It has been estimated that because of inadequate construction and poor heating plant performance, up to 40 percent of the energy we consume is being wasted. The vast majority of our homes are literal heat sieves where quantities of heat laboriously manufactured in the home furnace promptly escape through the walls, windows, doors, and roofs.

An uninsulated house of average size can waste up to 700 gallons of fuel a year, and a partially insulated house, 200 gallons a year. The average furnace today is supposedly designed to operate at 70 to 75 percent efficiency; in actual operation it has dropped to 35 to 50 percent.

I submit, Mr. Chairman, in return for saving nearly 4 to 5 percent on our national energy consumption, the Federal costs would be minimal. In the loan program, the cost would only be the difference between the subsidized and market rates of interest.

I also point out that a similar provision appears in the Senate version of the energy bill. I submit that this is a very expansive, far-reaching energy bill that we are considering today. As the Chair has previously noted in Mr. Sarasin's amendment, it should be broadly defined and broadly construed.

I would hope, in anticipation of the gentleman from Michigan's point of order on the point of germaneness, that the acuity and generosity demonstrated by the Chair in ruling on the amendment of the gentleman from Connecticut (Mr. Sarasin) would be repeated.

Mr. HOGAN. I thank the gentleman for yielding.

I rise in support of the gentleman's amendment.

Mr. HOGAN. Mr. Chairman, it is estimated that 12 percent of all U.S. energy is used for heating homes. Of this 12 percent approximately 40 percent is lost due to poor insulation. It seems only logical that with our dwindling energy supplies, all efforts should be made to insulate homes more efficiently. However, the cost involved might be too much for some citizens to bear.

Many homes in this country were constructed over 30 years ago and have not sufficiently updated their insulation and heating equipment. Greenbelt Homes, Inc.—or GHI—is a conversion type cooperative housing community in my district that was originally constructed by the Federal Government in 1936. In 1952, GHI purchased the 1,579 dwelling units, together with ancillary facilities and land from the Federal Government.

All the homes that were purchased from the Federal Government were built to be heated by the burning of coal. The heating units were converted to burn oil before the property was sold by the Government. Each of the 579 brick masonry homes is heated by circulating hot water through radiators. In addition, the 1,000 frame units are heated by four large boiler plants.

With the current oil shortage, GHI commissioned a consulting firm to make a study of its dwelling units. This study was completed in April 1972, and it recommended a major renovation of the homes and a new heating system. The installation of these recommendations could

save an estimated 1 percent in the amount of energy used by GHI. However, it would require more than \$1 million to purchase and install the necessary equipment.

We cannot be unrealistic and expect the people of this cooperative community, many of whom live on retirement income, or other similar situations, to buy and install expensive materials for the purpose of conserving fuel.

What can be done, however, is to provide an incentive and make the funds available for the purchasing of this equipment.

My colleague from Maine (Mr. Cohen) has introduced two bills which would achieve this purpose.

The first proposal, H.R. 11615, amends the Internal Revenue Code to permit the owner of a residence to deduct from his taxable income expenditures made to improve the efficiency of heating his home and to reduce heating losses. Such improvements might include adding storm windows and doors or placing more insulation in unfinished attics. These measures alone can save an estimated 10 to 20 percent in heating loss.

The second proposal, H.R. 11660, establishes a direct low-interest loan program. This program would be especially valuable for the homeowners who find that bringing their residences to an acceptable level of heating efficiency will involve substantial expenditures. The Greenbelt Homes, Inc., is a case in point.

Mr. Chairman, substantial evidence exists that these proposals could save a significant amount of energy with a minimal cost to the Federal Government.

In the loan program, the cost would only be the difference between the subsidized and market rates of interest. In the tax program it would be the amount of revenue lost because of the fractional reduction in taxable income.

For weeks the American people have been urged to take voluntary steps to help conserve on energy. I firmly believe that the time has come for our constituents to receive some type of incentive for fuel conservation. I believe that these two measures are viable solutions and I urge the quick consideration of these measures.

I enthusiastically support the amendment offered by the gentleman from Maine (Mr. Cohen) and commend him for offering it.

Mr. MARTIN of North Carolina. Mr. Chairman, I, too, want to support the gentleman's amendment, and I commend him for his excellent research and documentation, and hope it will be adopted.

Mr. ANDERSON of Illinois. Mr. Chairman, I join those who have congratulated the gentleman for such a good amendment. I think it goes to the very heart of the purpose of this bill.

In the title we are told that it is to assure, through energy conservation, among other things, that the essential energy needs of the United States are met. **Section 105** deals with energy conservation plans. The gentleman has presented a very cogent argument. I think, for the kind of congressional initiative that would encourage the people of this country, the taxpayers of this country, to embark on proper programs of insulating their homes and improving their homes in such a way as to equalize all heat to minimize the loss that now occurs because of faulty and inadequate construction.

I hope very much that those who have urged the points of order against the gentleman's amendment will see the wisdom of withdrawing those points of order, because, I would repeat, it goes to the very heart of the bill and would promote what we are trying to accomplish in this particular Emergency Energy Act.

Mr. COHEN. I thank the gentleman from Illinois for his comments.

Mr. CARTER. I want to say that I, too, support the gentleman's amendment. It is worthy, and it would be extremely helpful.

Mr. BROWN of California. I thank the gentleman for yielding. I also want to commend the gentleman for his amendment. It is an excellent amendment, and if enough amendments of this sort were included in the bill, it might be possible for me to vote for what otherwise is a very unsatisfactory bill.

Mr. Chairman, in 9 years of service in the House of Representatives, rarely have I seen as dismal a performance on any piece of legislation as I have witnessed by the Members on the Energy Emergency Act now before this body. For a measure affecting such a vital subject—the energy crisis—it is amazing that a bill that was imperfect enough in the form reported by the committee to which it was assigned could be made even worse. From efforts to overturn the Supreme Court's anti-segregation decisions to attempts to enrich the oil corporations at the expense of the public, every imaginable thing has been offered for inclusion in this bill under the guise of solving the energy crisis even if its connection with energy is ludicrously tenuous.

Only because the oil companies have fallen so much into disfavor with the American public was it possible to defeat an attempt to permit them windfall profits stemming from the fuel shortages. Even then the vote for the oil companies had the support of 46 percent of the Members of this body. Unfortunately, this was not the case with the coal companies. Away from the public spotlight for many years, their spokesmen were successful in rounding up 256 votes, more than enough to pass an amendment to permit them to get away with windfall profits during the energy crisis. This will harm the consumer more and more as utilities and industries switch from scarce oil supplies to the more plentiful coal.

Lest anyone think that the oil companies have completely lost out when it comes to gouging the public, one should note the extent to which the oil industry has moved into coal. If they cannot make windfall profits directly, then many of them will be able to do it indirectly. The authoritative Standard and Poor's Corporation Records reveals the following: Continental Oil owns Consolidated Coal Co., one of the largest of the coal companies; Gulf Oil owns Pittsburgh and Midway Coal Mining Co.; Occidental Petroleum owns Island Creek Coal Co.; Standard Oil of Ohio owns Old Ben Coal Corp., which in turn has additional coal company subsidiaries; Ashland Oil Corp. has a 45-percent interest in Arch Minerals Corp. and a 30-percent interest in Southwestern Illinois Coal Corp.; and one of Exxon's subsidiaries, Carter Oil Co., has interests in Monterey Coal Co.

Again, under the guise of helping solve the fuel shortage, those industries that have not wanted to go to the expense which they are responsible have succeeded in having a series of provisions inserted in this bill, first at the committee stage and now by amendments on the

floor of the House. Taken together, these provisions would demolish most of the gains made in clean air since 1970.

In an attempt to partially restore our strong environmental protection laws I had prepared four amendments which I had planned to offer to the bill. These would have offset the worst of the damage done by the committee to which the bill was referred. But because of the way in which matters have been proceeding in this body it has become apparent that this is a hopeless effort. Too many Members have been stampeded needlessly by the energy issue into abandoning all concern for clean air.

A perfect illustration of this point was **section 203** of the bill which would have permitted suspension for 1 year of the standards for reduction of hydrocarbon, carbon monoxide, and nitrogen oxide emissions. My amendment would have stricken this part of the bill in order to restore the deadline for these standards to go into effect. The section of the bill would have made no contribution to helping solve the energy crisis and, like many of the other sections of the bill, did not even belong in an Energy Emergency Act. Nevertheless, not only was my amendment barred by a parliamentary device, but another amendment was adopted which postpones improved emission standards for yet another year.

The bitter irony of all this is that the action taken delaying the more rigorous emission standards in the name of fuel economy will have the reverse effect. The standards of the current law would have forced the automakers to use better technology which, combined with the recalibration of engines for improved efficiency, would have significantly improved fuel economy. EPA estimates that extension of 1975 emission standards will cause us to forego a 5- to 6-percent net fuel gain.

The parliamentary procedures being used to push through for another 2 years, as the amended bill now provides, this bill has made consideration of my other amendments hopeless. These amendments would have restored to the States their rights to enact more rigorous anti-pollution laws, would have restored to the individual citizen his right to sue to force compliance with provisions of the Clean Air Act, and would have prevented use of the "intermittent control" method proposed in the bill whereby factories, utilities, and other stationary sources of pollutants could pollute without restriction until conditions became so bad that the installations either had to shut down or switch to a clean fuel. For those choking on the pollutants, that would be a little late.

The last 3 days during which this body has been considering the Energy Emergency Act have been a sad time for the millions of people who have been seeking to live in a clean environment, and particularly for those of us in southern California.

The worsening crisis has been used as an excuse to shove through every imaginable measure no matter how remote or even non-existent its contribution to solving the problem.

We have had a quarter of a century to prepare for this fuel shortage and to avoid it. Now, as the gas stations close, as the manufacturers despair of obtaining fuel and petroleum based materials, and as the homeowners and hospitals begin to wonder if they will have fuel for the winter it is a little late finally to be trying to come to terms with

the warning former president Harry S. Truman gave us in his state of the Union message on January 10, 1949:

This country must face squarely the fact that a major portion of its rapidly increasing energy requirements is being met by oil and gas, which constitute only a small portion of our energy reserves. The prospects are that we shall become increasingly dependent on foreign sources of oil unless appropriate action is taken.

Mr. ROY. Mr. Chairman, I also support the amendment and point out to the committee that in a study done in the Office of the President, published in October of 1972, there were 21 conservation and energy methods recommended, and the first among these was adequate insulation and air tightening of our homes.

I think it is commendable that the gentleman from Maine brings this measure now to the floor of the House, albeit 14 long, important months after this method of conserving energy was recommended to the President.

Mr. MARTIN of Nebraska. Mr. Chairman, I think this is the most ridiculous amendment offered this evening. I happen to be in the retail lumber business and I sell insulation and storm doors and storm windows and so forth. For taxpayers to have to foot the bill for you and for me or for anybody else to buy insulation for his home is utterly ridiculous.

The CHAIRMAN. Does the gentleman from Michigan insist on his point of order?

PARLIAMENTARY INQUIRY

Mr. HOSMER. Mr. Chairman, a parliamentary inquiry.

It is my understanding that when a point of order is made that the rules require that the ruling be made thereon, and that when a Member reserves the point of order it is in the nature only of a unanimous-consent request and, therefore, when that request is objected to, that thereafter he can no longer pursue the point of order which he has reserved.

Mr. DINGELL. Mr. Chairman, the Chair has already ruled on this.

The CHAIRMAN. The Chair needs no assistance in this matter.

The gentleman is in error. It is entirely at the discretion of the Chair as to whether the point of order will be reserved unless another Member demands the regular order. A reservation of a point of order is not in the nature of a unanimous-consent request.

Regular order was not demanded. Therefore it is in order for the gentleman to persist in his point of order.

The Chair recognizes the gentleman from Michigan.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I make a point of order as to the germaneness of the amendment offered by my friend, the gentleman from Maine. It may well be that the amendment has great merit and it appears certainly to call upon the sympathy of many of us. The fact of the matter is it does a number of things not in the bill.

First of all, were this to be a freestanding bill, a free-standing piece of legislation, were the amendment to be a free-standing piece of legislation, it would be referred to the Committee on Banking and Currency.

Second of all, the amendment, as the Chair will note, sets up a loan program of great dimensions and extent for a large number of actions including insulation of homes, purchasing of cooling and heating equipment, dissemination of cooling and heating equipment, dissemination of information, and sets up a very large loan fund and a revolving fund. It sets up conditions for the Secretary of Health, Education, and Welfare, whose name appears nowhere else in the bill, who is directed to make loans and undertake a whole series of other actions.

So regrettably, although I am in sympathy with the purposes of the gentleman and certainly I think this should be studied by another committee, I have to insist that the amendment is not germane to the matter before us.

The CHAIRMAN. Does the gentleman from Maine desire to be heard on the point of order?

Mr. COHEN. Only, Mr. Chairman, to urge the Chair once again to consider that this is a national energy proposal and it is as broad as ranging from carpools to hydroelectric projects. I certainly think the purpose of this is to conserve our energy resources and I cannot think of a more appropriate means to do this. I point out, it is included in the Senate version along with another amendment I would like to offer at a later time and I believe it is germane to the bill.

Mr. ANDERSON of Illinois. Mr. Chairman, if I may be heard on the point of order, it was suggested that this is incompatible with the purposes of this bill. I would invite the attention of Members of the House to **section 105**, where in connection with energy conservation plans to be promulgated and administered by the Federal Energy Administration it says that shall be done "with actions taken and proposed to be taken under other authority"—and I underscore the word "other"—"of this or other acts to result in a reduction of energy consumption".

Can there be anything clearer than that the gentleman seeks to provide with this amendment the other authority that would lead to a reduction of energy consumption? This is clearly the kind of action contemplated under his amendment. I think it is entirely germane to the purposes of this bill.

The CHAIRMAN (Mr. Bolling). The Chair is ready to rule. The amendment offered by the gentleman from Maine (Mr. Cohen) clearly comes really in the jurisdiction not of the Committee on Interstate and Foreign Commerce, but in the jurisdiction of the Committee on Banking and Currency. It has the effect of substantially broadening the bill and introduces a subject not before the committee.

Therefore, the Chair rules that the point of order is well taken and sustains the point of order.

The Chair recognizes the gentleman from New York (Mr. Pike).

AMENDMENT OFFERED BY MR. PIKE TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

MR. PIKE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment **[Sec. 103]** offered by Mr. Pike to the amendment in the nature of a substitute offered by Mr. Staggers: Page 7, line 13, insert a new paragraph "(j)" as follows:

"Nothing contained in this Act shall affect the Naval Petroleum Reserves or any other Federal land under the jurisdiction of the Department of Defense". And reletter the following paragraph.

POINT OF ORDER

MR. STAGGERS. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

MR. STAGGERS. I make a point of order against the amendment.

MR. HOSMER. Mr. Chairman, regular order.

MR. STAGGERS. Mr. Chairman, I say that the amendment is not germane to the bill.

MR. PIKE. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. Certainly. The gentleman is recognized.

MR. PIKE. I think that the amendment certainly is germane to the bill and to the language of the bill and to the purposes of the bill.

On page 6 of the bill it says that the President may, by order, require the production of crude oil at the producer level at the maximum efficient rate of production.

Later on on that page it describes the maximum efficient rate of production with respect to any oil field on Federal land as being determined by the Department of the Interior.

I would submit that any oil field on Federal land includes the Naval Petroleum Reserves. I am simply seeking to take the level of petroleum reserves out of this language and reserving jurisdiction over it for the Department of Defense.

I think it is wholly germane.

MR. STAGGERS. Mr. Chairman, in light of the statement of the gentleman from New York, I would say I withdraw my objection and state that I am in favor of the amendment and I urge its passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Pike) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

MR. SCHERLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 202, answered "present" 4, not voting 52, as follows:

[Roll No. 680]

AYES—174

Addabbo	Fountain	O'Brien
Alexander	Frelinghuysen	O'Hara
Andrews, N.C.	Fulton	O'Neill
Andrews, N. Dak.	Fuqua	Pepper
Annunzio	Gettys	Perkins
Arends	Giaimo	Pickle
Ashbrook	Gibbons	Pike
Ashley	Ginn	Podell
Aspin	Gonzalez	Powell, Ohio
Barrett	Grasso	Price, Ill.
Beard	Gray	Price, Tex.
Bennett	Green, Oreg.	Railsback
Bevill	Green, Pa.	Randall
Biaggi	Gross	Rarick
Blackburn	Gunter	Roberts
Blatnik	Hanley	Robinson, Va.
Boggs	Hansen, Idaho	Rodino
Brasco	Henderson	Rostenkowski
Bray	Hicks	Roybal
Breckinridge	Hillis	Ruth
Brinkley	Holifield	Ryan
Brooks	Holt	Sarasin
Brotzman	Hosmer	Satterfield
Brown, Ohio	Hudnut	Shipley
Burleson, Tex.	Jarman	Shriver
Burton	Jones, Ala.	Sikes
Byron	Jones, N.C.	Slack
Carey, N.Y.	Jones, Okla.	Smith, N.Y.
Carney, Ohio	Jordan	Spence
Casey, Tex.	Kazen	Staggers
Chappell	Kemp	Stephens
Chisholm	Kyros	Stratton
Clancy	Landgrebe	Stubblefield
Cleveland	Landrum	Stuckey
Collins, Ill.	Lehman	Symington
Collins, Tex.	Lent	Taylor, N.C.
Daniel, Dan	Long, La.	Teague, Tex.
Daniel, Robert W., Jr.	Long, Md.	Thompson, N.J.
Daniels, Dominick V.	Lott	Treen
Danielson	McFall	Vander Jagt
Davis, Ga.	McKay	Vanik
Davis, S.C.	Macdonald	Vigorito
de la Garza	Mahon	Waggonner
Delaney	Mathis, Ga.	White
Dennis	Matsunaga	Whitehurst
Dickinson	Milford	Wilson, Bob
Dingell	Mink	Wilson, Charles H., Calif.
Downing	Mitchell, N.Y.	Wilson, Charles, Tex.
Dulski	Moakley	Winn
Eilberg	Mollohan	Wolff
Evans, Colo.	Montgomery	Wright
Evins, Tenn.	Murphy, Ill.	Wyman
Fascell	Murphy, N.Y.	Yates
Fisher	Myers	Young, Fla.
Flood	Natcher	Young, Ga.
Flynt	Nedzi	Young, Tex.
Ford, William D.	Nichols	Zablocki
Forsythe	Obey	Zion

Abdnor	Gilman	Peyser
Abzug	Goodling	Poage
Adams	Grover	Preyer
Anderson, Calif.	Gude	Pritchard
Anderson, Ill.	Guyer	Quie
Archer	Haley	Quillen
Armstrong	Hamilton	Rangel
Badillo	Hammerschmidt	Rees
Bafalis	Hanna	Regula
Baker	Hanrahan	Reid
Bauman	Harrington	Reuss
Bergland	Hastings	Rhodes
Biester	Hawkins	Rinaldo
Bingham	Hechler, W. Va.	Robison, N.Y.
Boland	Heckler, Mass.	Roe
Bowen	Heinz	Rogers
Brademas	Helstoski	Roncalio, Wyo.
Brown, Calif.	Hinshaw	Rooney, Pa.
Brown, Mich.	Hogan	Rose
Broyhill, N.C.	Horton	Rosenthal
Broyhill, Va.	Howard	Roush
Buchanan	Hungate	Rousselot
Burgener	Hutchinson	Roy
Burke, Fla.	Johnson, Colo.	Ruppe
Burke, Mass.	Johnson, Pa.	St Germain
Burlison, Mo.	Jones, Tenn.	Sarbanes
Butler	Karth	Scherle
Camp	Kastenmeier	Schneebeli
Carter	Ketchum	Schroeder
Cederberg	Koch	Sebelius
Chamberlain	Kuykendall	Seiberling
Clausen, Don H.	Latta	Shoup
Cochran	Litton	Shuster
Cohen	Lujan	Sisk
Collier	McClory	Skubitz
Conable	McCloskey	Smith, Iowa
Conlan	McCollister	Snyder
Conte	McCormack	Stanton, J. William
Corman	McDade	Stanton, James V.
Cotter	McEwen	Stark
Coughlin	McSpadden	Steed
Crane	Madden	Steelman
Cronin	Madigan	Steiger, Ariz.
Culver	Mailliard	Steiger, Wis.
Davis, Wis.	Mallary	Studds
Dellenback	Mann	Symms
Dellums	Maraziti	Talcott
Denholm	Martin, Nebr.	Teague, Calif.
Derwinski	Martin, N.C.	Thomson, Wis.
Devine	Mathias, Calif.	Thone
Donohue	Mayne	Thornton
Drinan	Mazzoli	Tiernan
Duncan	Mezvinsky	Towell, Nev.
du Pont	Michel	Udall
Eckhardt	Miller	Ullman
Edwards, Ala.	Minish	Van Deerlin
Edwards, Calif.	Minshall, Ohio	Waldie
Esch	Mitchell, Md.	Wampler
Eshleman	Mizell	Whitten
Findley	Moorhead, Calif.	Wiggins
Fish	Moorhead, Pa.	Wylder
Flowers	Mosher	Wylie
Foley	Nelsen	Yatron
Fraser	Owens	Young, Alaska
Frenzel	Parris	Young, Ill.
Froehlich	Passman	Young, S.C.
Gaydos	Patten	Zwach
	Pettis	

ANSWERED "PRESENT"—4

Frey
Holtzman

Huber

McKinney

NOT VOTING—52

Bell
Bolling
Breaux
Broomfield
Burke, Calif.
Clark
Clawson, Del
Clay
Conyers
Dent
Diggs
Dorn
Erlenborn
Goldwater
Griffiths
Gubser
Hansen, Wash.
HarshaHarvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Leggett
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Moss
NixPatman
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Widnall
Williams
Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PRICE OF TEXAS TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. PRICE of Texas. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 117(a)] offered by Mr. Price of Texas to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

"(9) (A) This subsection shall not apply to the first sale of crude oil or petroleum condensates produced from any lease within the United States by a seller (i) who produced such oil or condensate, (ii) who (together with all persons who control, are controlled by or who are under common control with such seller), produces in the aggregate less than 5,000 barrels per day of crude oil and petroleum condensates, averaged annually, and (iii) who is not a refiner or marketer or distributor of refined petroleum products (or a person who controls, is controlled by, or is under common control with such a refiner, marketer, or distributor).

POINT OF ORDER

Mr. CONTE. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CONTE. Mr. Chairman, my point of order is that we have already considered the amendment before today. It was the Roy amendment, and therefore a point of order should lie against it.

Mr. DINGELL. Mr. Chairman, I would like to be heard also on the point of order.

The CHAIRMAN. The Chair will state that as the Chair understands the amendment the figure has been changed, therefore it is not the same amendment since the figure has been changed.

Mr. DINGELL. May I be heard on the point of order?

Mr. ECKHARDT. Mr. Chairman, I would like to speak against the point of order.

The CHAIRMAN. May the Chair suggest that the Clerk complete the reading of the amendment, and then I will recognize the gentleman on his point of order.

The Clerk read the remainder of the amendment, as follows:

"(B) For purposes of subparagraph (A)—

"(i) a person produces crude oil or petroleum condensates only if he has an interest in the production thereof which permits him to take his production (or share thereof) in kind, and

"(ii) the term 'control' means control by ownership."

The CHAIRMAN. The gentleman from Massachusetts will be heard on his point of order.

Mr. CONTE. Mr. Chairman, I insist on the point of order even though the amendment changes the figures. The amendment is now in the third degree, and therefore the point of order should be upheld.

Mr. DINGELL. Mr. Chairman, I make a point of order on the grounds that this is again bringing before the Committee a portion of the bill which has already been amended. As the Chair recalls, we adopted the Skubitz amendment, which dealt with the same subject matter, and at the same place, and I submit, regardless of the point of order raised by the gentleman from Massachusetts (Mr. Conte) that this is a violation of the rules of the House as an attempt to redo action earlier taken by the Committee with regard to the Skubitz amendment, which was likewise dealing with the limitation on the coverage of the particular section to include coverage of people who operate stripper wells.

Mr. ECKHARDT. Mr. Chairman, I speak against the point of order. The Skubitz amendment dealt in an entirely different subject matter. The Skubitz amendment dealt with oil produced by well, not oil produced by producer, and provided that in those cases of wells producing less than, as I recall, 10 barrels per day, these should be exempted.

The amendment here is not dealing with stripper wells. It has nothing to do with wells. It has to do with the size of the producers. Therefore, this subject matter has not been previously covered. This does not change the Skubitz amendment at all, and it deals with a different subject.

Of course, the point of order with respect to the proposition that this is in the third degree is frivolous, because this is introduced as an additional amendment, and the amendment is different materially from the 25,000 barrels.

Mr. DINGELL. Mr. Chairman, I again note, with the assistance of the Chair, that the Skubitz amendment and the amendment now before us appear at precisely the same place in the bill.

The CHAIRMAN (Mr. Bollings). For the reasons stated by the gentleman from Texas (Mr. Eckhardt) because the Chair does not rule on the inconsistency of amendments, and the fact that the number of barrels involved in this amendment is different from that in the former amendment, the Chair overrules the points of order, and the amendment will be voted on.

The question is on the amendment offered by the gentleman from Texas (Mr. Price) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PRICE of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 226, present 15, not voting 51, as follows:

[Roll No. 681]

AYES—140

Alexander	Hansen, Wash.	Rees
Archer	Hastings	Rhodes
Bauman	Henderson	Roberts
Blackburn	Hicks	Robinson, Va.
Boggs	Horton	Rogers
Bowen	Hosmer	Roncalio, Wyo.
Breckinridge	Hungate	Roy
Brinkley	Jarman	Ruth
Brooks	Johnson, Colo.	Schneebeli
Brotzman	Johnson, Pa.	Sebelius
Brown, Mich.	Jones, Okla.	Seiberling
Broyhill, Va.	Jones, Tenn.	Shipley
Buchanan	Jordan	Shriver
Burgener	Karth	Sisk
Burke, Fla.	Kazen	Skubitz
Burleson, Tex.	Kemp	Spence
Butler	Ketchum	Staggers
Byron	Kuykendall	Stanton, J. William
Camp	Kyros	Steed
Casey, Tex.	Landgrebe	Steelman
Cederberg	Landrum	Steiger, Ariz.
Chamberlain	Litton	Stubblefield
Clausen, Don H.	Long, La.	Stuckey
Cochran	Long, Md.	Symington
Collins, Tex.	Lott	Symms
Conlan	Lujan	Taylor, N.C.
Crane	McClory	Teague, Calif.
Daniel, Dan	McKay	Teague, Tex.
Daniel, Robert W., Jr.	McSpadden	Thompson, N.J.
Davis, S.C.	Mahon	Thornton
de la Garza	Mathis, Ga.	Towell, Nev.
Denholm	Michel	Treen
Dennis	Milford	Ullman
Dickinson	Montgomery	Vander Jagt
Eckhardt	Moorhead, Calif.	Waggoner
Edwards, Ala.	Mosher	White
Evans, Colo.	Natcher	Whitehurst
Fisher	O'Brien	Whitten
Flowers	Owens	Wilson, Charles, Tex.
Flynt	Parris	Winn
Forsythe	Passman	Wright
Fuqua	Pickle	Young, Alaska
Ginn	Poage	Young, Ga.
Gonzalez	Powell, Ohio	Young, S.C.
Haley	Preyer	Young, Tex.
Hammerschmidt	Price, Tex.	Zion
Hanrahan	Rarick	

- | | | |
|----------------|-----------------|-----------------|
| Abdnor | Downing | McCollister |
| Abzug | Drinan | McDade |
| Adams | Dulski | McFall |
| Addabbo | Duncan | Macdonald |
| Anderson, | du Pont | Madden |
| Calif. | Edwards, Calif. | Madigan |
| Anderson, Ill. | Eilberg | Mailliard |
| Andrews, N.C. | Esch | Mallary |
| Andrews, | Evins, Tenn. | Mann |
| N. Dak. | Fascell | Maraziti |
| Annunzio | Findley | Martin, Nebr. |
| Arends | Fish | Martin, N.C. |
| Armstrong | Flood | Mathias, Calif. |
| Ashbrook | Foley | Matsunaga |
| Ashley | Ford, | Mayne |
| Aspin | William D. | Mazzoli |
| Badillo | Fountain | Mezvinsky |
| Bafalis | Fraser | Miller |
| Baker | Frelinghuysen | Minish |
| Barrett | Frenzel | Mink |
| Bennett | Frey | Minshall, Ohio |
| Bergland | Froehlich | Mitchell, Md. |
| Bevill | Fulton | Mitchell, N.Y. |
| Biaggi | Gaydos | Mizell |
| Biester | Gettys | Moakley |
| Bingham | Giaimo | Mollohan |
| Blatnik | Gibbons | Moorhead, Pa. |
| Boland | Gilman | Murphy, Ill. |
| Brademas | Goodling | Murphy, N.Y. |
| Brasco | Grasso | Myers |
| Bray | Green, Oreg. | Nedzi |
| Broomfield | Green, Pa. | Nelsen |
| Brown, Calif. | Gross | Nichols |
| Brown, Ohio | Grover | Obeys |
| Broyhill, N.C. | Gude | O'Hara |
| Burke, Mass. | Gunter | O'Neill |
| Burlison, Mo. | Guyer | Patten |
| Burton | Hamilton | Pepper |
| Carey, N.Y. | Hanley | Perkins |
| Carney, Ohio | Hanna | Peyser |
| Carter | Hansen, Idaho | Pike |
| Chappell | Harrington | Podell |
| Chisholm | Hawkins | Price, Ill. |
| Clancy | Hechler, W. Va. | Pritchard |
| Cleveland | Heckler, Mass. | Quie |
| Cohen | Heinz | Quillen |
| Collins, Ill. | Helstoski | Railsback |
| Conte | Hillis | Randall |
| Corman | Hinshaw | Rangel |
| Cotter | Hogan | Regula |
| Coughlin | Holifield | Reid |
| Cronin | Holt | Reuss |
| Culver | Holtzman | Rinaldo |
| Daniels, | Howard | Rodino |
| Dominick V. | Hudnut | Roe |
| Danielson | Hutchinson | Rooney, Pa. |
| Davis, Ga. | Jones, Ala. | Rose |
| Davis, Wis. | Jones, N.C. | Rosenthal |
| Delaney | Kastenmeier | Rostenkowski |
| Dellenback | Koch | Roush |
| Dellums | Latta | Roybal |
| Devine | Leggett | Ruppe |
| Dingell | Lehman | Ryan |
| Donohue | Lent | |

St Germain
 Sarasin
 Sarbanes
 Satterfield
 Scherle
 Schroeder
 Shoup
 Shuster
 Sikes
 Slack
 Smith, Iowa
 Snyder
 Stanton,
 James V.

Stark
 Steiger, Wis.
 Stephens
 Stratton
 Studds
 Talcott
 Thomson, Wis.
 Thone
 Tiernan
 Udall
 Van Deerlin
 Vanik
 Vigorito
 Waldie

Wampler
 Widnall
 Wilson,
 Charles H.,
 Calif.
 Wolff
 Wydler
 Wylie
 Yates
 Yatron
 Young, Fla.
 Young, Ill.
 Zablocki
 Zwach

ANSWERED "PRESENT"—15

Beard
 Collier
 Conable
 Derwinski
 Eshleman

Huber
 McCloskey
 McEwen
 Pettis
 Robison, N.Y.

Rousselot
 Smith, N.Y.
 Wiggins
 Wilson, Bob
 Wyman

NOT VOTING—51

Bell
 Bolling
 Breaux
 Burke, Calif.
 Clark
 Clawson, Del.
 Clay
 Conyers
 Dent
 Diggs
 Dorn
 Erlenborn
 Goldwater
 Gray
 Griffiths
 Gubser
 Harsha

Harvey
 Hays
 Hébert
 Hunt
 Ichord
 Johnson, Calif.
 Keating
 King
 Kluczynski
 McCormack
 McKinney
 Meeds
 Melcher
 Metcalfe
 Mills, Ark.
 Morgan
 Moss

Nix
 Patman
 Riegle
 Roncallo, N.Y.
 Rooney, N.Y.
 Runnels
 Sandman
 Steele
 Stokes
 Sullivan
 Taylor, Mo.
 Veysey
 Walsh
 Ware
 Whalen
 Williams
 Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BINGHAM TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. BINGHAM. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Bingham to the amendment in the nature of a substitute offered by Mr. Staggers: Amend section 107 on page 16 at line 14 after "common carrier", by adding a new subsection:

"(c) The Interstate Commerce Commission shall by expedited proceedings adopt appropriate rules under the Interstate Commerce Act which will contribute to conserving energy by eliminating discrimination against the shipment of recycled materials in rate structures and other Commission practices."

And redesignate the present subsection (c) as subsection "(d)".

PARLIAMENTARY INQUIRY

Mr. BINGHAM. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BINGHAM. Mr. Chairman, is there any way a Member can advise the Committee that both managers are agreeable to this amendment?

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Bingham) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 349, noes 8, answered "present" 17, not voting 58, as follows:

[Roll No. 682]

AYES—349

Abdnor	Broyhill, N.C.	Davis, S.C.
Abzug	Broyhill, Va.	Davis, Wis.
Adams	Buchanan	de la Garza
Addabbo	Burgener	Delaney
Alexander	Burke, Fla.	Dellenback
Anderson, Calif.	Burke, Mass.	Dellums
Anderson, Ill.	Burleson, Tex.	Denholm
Andrews, N.C.	Burlison, Mo.	Derwinski
Andrews, N. Dak.	Burton	Devine
Annunzio	Butler	Dickinson
Archer	Byron	Dingell
Arends	Camp	Donohue
Armstrong	Carey, N.Y.	Downing
Ashbrook	Carney, Ohio	Drinan
Ashley	Carter	Dulski
Aspin	Casey, Tex.	Duncan
Badillo	Cederberg	du Pont
Bafalis	Chamberlain	Eckhardt
Baker	Chappell	Edwards, Ala.
Barrett	Chisholm	Edwards, Calif.
Bennett	Clancy	Eilberg
Bergland	Clausen, Don. H.	Esch
Bevill	Cleveland	Evans, Colo.
Biaggi	Cochran	Evins, Tenn.
Biester	Cohen	Fascell
Bingham	Collins, Ill.	Findley
Blackburn	Collins, Tex.	Fish
Blatnik	Conlan	Fisher
Boggs	Conte	Flood
Boland	Corman	Flowers
Bowen	Cotter	Flynt
Brademas	Coughlin	Foley
Brasco	Crane	Ford, William D.
Bray	Cronin	Forsythe
Brinkley	Culver	Fountain
Brooks	Daniel, Dan	Fraser
Broomfield	Daniel, Robert W., Jr.	Frelinghuysen
Brotzman	Daniels, Dominick V.	Frenzel
Brown, Calif.	Danielson	Frey
Brown, Mich.	Davis, Ga.	Froehlich

Fulton	McClory	Quie
Fuqua	McCloskey	Quillen
Gaydos	McCollister	Railsback
Gettys	McDade	Randall
Giaimo	McFall	Rangel
Gibbons	McKay	Rarick
Gilman	McSpadden	Rees
Ginn	Madden	Regula
Gonzalez	Madigan	Reid
Grasso	Mahon	Reuss
Green, Oreg.	Mallary	Rhodes
Green, Pa.	Mann	Rinaldo
Gude	Maraziti	Roberts
Gunter	Martin, Nebr.	Robinson, Va.
Guyer	Martin, N.C.	Robison, N.Y.
Haley	Mathias, Calif.	Rodino
Hamilton	Mathis, Ga.	Roe
Hammerschmidt	Matsunaga	Rogers
Hanley	Mayne	Roncalio, Wyo.
Hansen, Idaho	Mazzoli	Rooney, Pa.
Hansen, Wash.	Mezvinsky	Rose
Harrington	Michel	Rosenthal
Hastings	Milford	Rostenkowski
Hawkins	Miller	Roush
Hechler, W. Va.	Minish	Rousselot
Heckler, Mass.	Minshall, Ohio	Roy
Heinz	Mitchell, Md.	Roybal
Helstoski	Mitchell, N.Y.	Ruppe
Henderson	Mizell	Ryan
Hicks	Moakley	St Germain
Hillis	Mollohan	Sarasin
Hinshaw	Montgomery	Sarbanes
Hogan	Moorhead, Calif.	Satterfield
Holifield	Moorhead, Pa.	Scherle
Holtzman	Mosher	Schneebeli
Horton	Murphy, Ill.	Schroeder
Hosmer	Murphy, N.Y.	Seiberling
Howard	Myers	Shipley
Hudnut	Natcher	Shoup
Hungate	Nedzi	Shriver
Jarman	Nelsen	Shuster
Johnson, Pa.	Nichols	Sikes
Jones, N.C.	Obey	Sisk
Jones, Okla.	O'Brien	Slack
Jones, Tenn.	O'Hara	Smith, Iowa
Jordan	O'Neill	Snyder
Karth	Owens	Spence
Kastenmeier	Parris	Staggers
Kazen	Passman	Stanton, J. William
Kemp	Patten	Stanton, James V.
Ketchum	Pepper	Steed
Koch	Perkins	Steelman
Kuykendall	Pettis	Steiger, Ariz.
Kyros	Peyser	Steiger, Wis.
Landrum	Pickle	Stratton
Latta	Pike	Stubblefield
Leggett	Poage	Stuckey
Lehman	Podell	Studds
Lent	Powell, Ohio	Symington
Litton	Preyer	Symms
Long, La.	Price, Ill.	Talcott
Long, Md.	Price, Tex.	Taylor, N.C.
Lott	Pritchard	Teague, Calif.
Lujan		

Teague, Tex.	Waggoner	Wylie
Thompson, N.J.	Waldie	Wyman
Thomson, Wis.	Wampler	Yatron
Thone	White	Young, Alaska
Thornton	Whitehurst	Young, Fla.
Tiernan	Whitten	Young, Ga.
Towell, Nev.	Widnall	Young, Ill.
Treen	Wiggins	Young, S.C.
Udall	Wilson, Charles H., Calif.	Young, Tex.
Ullman	Wilson, Charles, Tex.	Zablocki
Van Deerlin	Winn	Zion
Vander Jagt	Wolff	Zwach
Vanik	Wylder	
Vigorito		

NOES—8

Bauman	Holt	Macdonald
Brown, Ohio	Jones, Ala.	Stephens
Dennis	Landgrebe	

ANSWERED "PRESENT"—17

Beard	Grover	Mink
Collier	Hanna	Ruth
Conable	Huber	Sebelius
Eshleman	Hutchinson	Skubitz
Goodling	Johnson, Colo.	Wilson, Bob
Gross	McEwen	

NOT VOTING—58

Bell	Hays	Riegle
Bolling	Hébert	Roncallo, N.Y.
Breaux	Hunt	Rooney, N.Y.
Breckinridge	Ichord	Runnels
Burke, Calif.	Johnson, Calif.	Sandman
Clark	Keating	Smith, N.Y.
Clawson, Del.	King	Stark
Clay	Kluczynski	Steele
Conyers	McCormack	Stokes
Dent	McKinney	Sullivan
Diggs	Mailliard	Taylor, Mo.
Dorn	Meeds	Vesey
Erlenborn	Melcher	Walsh
Goldwater	Metcalfe	Ware
Gray	Mills, Ark.	Whalen
Griffiths	Morgan	Williams
Gubser	Moss	Wright
Hanrahan	Nix	Wyatt
Harsha	Patman	Yates
Harvey		

So the amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 107(a).]**

The result of the vote was announced as above recorded.

PREFERENTIAL MOTION OFFERED BY MR. MCCOLLISTER

Mr. McCOLLISTER. Mr. Chairman, I offer a preferential motion. The Clerk read as follows:

Mr. McCollister moves that the Committee do now rise.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Nebraska (Mr. McCollister).

The question was taken; and the Chairman announced that the "noes" appeared to have it.

RECORDED VOTE

Mr. SCHERLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 86, noes 290, answered "present" 2, not voting 54, as follows:

[Roll No. 683]

AYES—86

Bauman	Haley	Powell, Ohio
Bevill	Hanna	Price, Tex.
Blackburn	Hastings	Rangel
Bowen	Hillis	Robinson, Va.
Brinkley	Hogan	Robison, N.Y.
Brooks	Hutchinson	Rousselot
Broomfield	Jarman	Ryan
Brown, Mich.	Johnson, Pa.	Scherle
Broyhill, Va.	Kemp	Schneebeli
Buchanan	Kuykendall	Shoup
Burgener	Landgrebe	Shriver
Burleson, Tex.	Lent	Shuster
Chamberlain	Lott	Spence
Chappell	Lujan	Steelman
Conable	McClory	Steiger, Wis.
Conlan	McCloskey	Studds
Coughlin	McCollister	Teague, Tex.
Daniel, Dan	McEwen	Towell, Nev.
Daniel, Robert W., Jr.	McKinney	Whitehurst
Davis, S.C.	McSpadden	Whitten
Dennis	Mallary	Wyman
Dickinson	Mathis, Ga.	Yates
Eshleman	Mink	Young, Alaska
Flynt	Minshall, Ohio	Young, Fla.
Frelinghuysen	Montgomery	Young, S.C.
Froehlich	Moorhead, Calif.	Young, Tex.
Gonzalez	Myers	Zion
Gross	Pike	Zwach
Gude	Poage	

NOES—290

Abdnor	Badillo	Brotzman
Abzug	Bafalis	Brown, Calif.
Adams	Baker	Brown, Ohio
Addabbo	Barrett	Broyhill, N.C.
Alexander	Bennett	Burke, Fla.
Anderson, Calif.	Bergland	Burke, Mass.
Anderson, Ill.	Biaggi	Burlison, Mo.
Andrews, N.C.	Biestner	Burton
Andrews, N. Dak.	Bingham	Butler
Annunzio	Blatnik	Byron
Archer	Boggs	Camp
Arends	Boland	Carney, Ohio
Armstrong	Brademas	Carter
Ashbrook	Brasco	Casey, Tex.
Ashley	Bray	Chisholm
Aspin	Breckinridge	Clancy

Clausen, Don H.	Gunter	Minish
Cleveland	Guyer	Mitchell, Md.
Cohen	Hamilton	Mitchell, N.Y.
Collier	Hammerschmidt	Mizell
Collins, Ill.	Hanley	Moakley
Collins, Tex.	Hansen, Idaho	Mollohan
Conte	Hansen, Wash.	Moorhead, Pa.
Corman	Harrington	Mosher
Cotter	Hawkins	Murphy, Ill.
Crane	Hechler, W. Va.	Murphy, N.Y.
Cronin	Heckler, Mass.	Natcher
Culver	Heinz	Nedzi
Daniels, Dominick V.	Helstoski	Nelsen
Danielson	Henderson	Nichols
Davis, Ga.	Hicks	Obey
Davis, Wis.	Hinshaw	O'Brien
de la Garza	Holifield	O'Hara
Delaney	Holt	O'Neill
Dellenback	Holtzman	Owens
Dellums	Horton	Parris
Denholm	Hosmer	Passman
Derwinski	Howard	Patten
Devine	Huber	Pepper
Dingell	Hudnut	Perkins
Donohue	Hungate	Pettis
Downing	Johnson, Colo.	Peyser
Drinan	Jones, Ala.	Pickle
Dulski	Jones, N.C.	Podell
Duncan	Jones, Okla.	Preyer
du Pont	Jones, Tenn.	Price, Ill.
Eckhardt	Jordan	Pritchard
Edwards, Ala.	Karth	Quie
Edwards, Calif.	Kastenmeier	Quillen
Eilberg	Kazen	Railsback
Esch	Ketchum	Randall
Evans, Colo.	Koch	Rarick
Evins, Tenn.	Kyros	Rees
Fascell	Landrum	Regula
Findley	Latta	Reid
Fish	Leggett	Reuss
Fisher	Lehman	Rhodes
Flood	Litton	Rinaldo
Flowers	Long, La.	Roberts
Foley	Long, Md.	Rodino
Ford, William D.	McCormack	Roe
Forsythe	McDade	Rogers
Fountain	McFall	Roncalio, Wyo.
Fraser	McKay	Rooney, Pa.
Frenzel	Macdonald	Rose
Frey	Madden	Rosenthal
Fulton	Madigan	Rostenkowski
Fuqua	Mahon	Roush
Gaydos	Mann	Roy
Gettys	Maraziti	Roybal
Giaimo	Martin, Nebr.	Ruppe
Gibbons	Martin, N.C.	Ruth
Gilman	Mathias, Calif.	St Germain
Ginn	Matsunaga	Sarasin
Goodling	Mayne	Sarbanes
Grasso	Mazzoli	Satterfield
Gray	Mezvinsky	Schroeder
Green, Oreg.	Michel	Sebelius
Green, Pa.	Milford	Seiberling
Grover	Miller	Shipley

Sikes	Symms	Waldie
Sisk	Talcott	Wampler
Skubitz	Taylor, N.C.	White
Slack	Teague, Calif.	Widnall
Smith, Iowa	Thompson, N.J.	Wiggins
Smith, N.Y.	Thomson, Wis.	Wilson, Bob
Snyder	Thone	Wilson, Charles H.
Staggers	Thornton	Calif.
Stanton, J. William	Tiernan	Wilson, Charles, Tex.
Stanton, James V.	Treen	Winn
Steed	Udall	Wolff
Steiger, Ariz.	Ullman	Wylder
Stephens	Van Deerlin	Wylie
Stratton	Vander Jagt	Yatron
Stubblefield	Vanik	Young, Ga.
Stuckey	Vigorito	Young, Ill.
Symington	Waggonner	Zablocki

ANSWERED "PRESENT"—2

Beard Cochran

NOT VOTING—54

Bell	Harsha	Patman
Bolling	Harvey	Riegle
Breaux	Hays	Roncallo, N.Y.
Burke, Calif.	Hébert	Rooney, N.Y.
Carey, N.Y.	Hunt	Runnels
Cederberg	Ichord	Sandman
Clark	Johnson, Calif.	Stark
Clawson, Del.	Keating	Steele
Clay	King	Stokes
Conyers	Kluczynski	Sullivan
Dent	Mailliard	Taylor, Mo.
Diggs	Meeds	Veysey
Dorn	Melcher	Walsh
Erlenborn	Metcalfe	Ware
Goldwater	Mills, Ark.	Whalen
Griffiths	Morgan	Williams
Gubser	Moss	Wright
Hanrahan	Nix	Wyatt

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LONG OF LOUISIANA TO THE AMENDMENT IN
THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. LONG of Louisiana. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Long of Louisiana to the amendment in the nature of a substitute offered by Mr. Staggers: Page 55, line 12, after "and preferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 55, line 23, after "and preferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 56, line 16, after "and preferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 56, line 13, after "and preferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 56, line 16, after "and preferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 56, line 20, after "and preferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 56, line 25, at the end of subsection (C) insert the following:

"The term 'indirect source' shall mean a source that causes or may cause mobile source activity. The provisions of this paragraph shall in no way diminish the Administrator's power to regulate stationary sources of air pollution."

POINT OF ORDER

Mr. STAGGERS. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman from West Virginia (Mr. Staggers) makes a point of order against the amendment.

The gentleman will state his point of order.

Mr. STAGGERS. Mr. Chairman, the amendment [Sec. 202(b)] seems to amend a section that has already been amended, and I would like, if I could, to have the sponsor of the amendment tell me in his language what is in it and why the point of order should not lie.

Mr. LONG of Louisiana. No, Mr. Chairman.

Mr. STAGGERS. Mr. Chairman, I will say this: I will try to explain what the bill does.

The CHAIRMAN. The Chair will hear the gentleman from West Virginia on the point of order.

Mr. STAGGERS. I thank the Chairman.

The point of order, as I gather the point of order, would lie on the fact that the amendment is not germane, because of the fact that it amends the part that has already been amended on the carpool. We took this up earlier on the parking restrictions and this amendment goes further.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. Yes, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, what the amendment does is, it substitutes indirect language for "carpools" and for "parking surcharge." In other words, it goes rather more broadly than the original language. It sets up an entirely new group.

Mr. STAGGERS. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. Long) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SCHERLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment in the nature of a substitute was rejected.

PARLIAMENTARY INQUIRY

Mr. DERWINSKI. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DERWINSKI. Mr. Chairman, my parliamentary inquiry is this:

In view of the ruling of the Chair on the point of order made against the amendment that was just rejected and the nature of the

handling of the objection by the Chair, do we now believe that the Chair will be consistently understanding in permitting points of order to become explanations of some of these complex amendments?

The CHAIRMAN. The Chair will abide by the rules of the House, and when a Member makes a point of order, the Chair will hear the Member on the point of order.

Mr. DERWINSKI. Then, Mr. Chairman, one further parliamentary inquiry:

Would it be in order for me at this time to ask unanimous consent that all debate on the amendment in the nature of a substitute and all amendments thereto be open until midnight?

The CHAIRMAN. Will the gentleman restate his proposed unanimous-consent request?

Mr. DERWINSKI. Mr. Chairman, I ask unanimous consent that all debate on the amendment in the nature of a substitute and all amendments thereto be open until midnight.

The CHAIRMAN. If the Chair understands the gentleman, the gentleman is proposing by unanimous consent that the Committee of the Whole rescind its previous agreement?

Mr. DERWINSKI. That is exactly right, Mr. Chairman.

The CHAIRMAN. And the gentleman is proposing that the Committee of the Whole enter into a new agreement which would provide for no further debate at midnight?

Mr. DERWINSKI. Well, Mr. Chairman, the real intent is to provide that we vote on amendments after some explanation of their content so we are not voting in the blind. This is not a proper parliamentary statement, but it is a statement of the facts before us.

The CHAIRMAN. The Chair will try to state the unanimous-consent request which I understand the gentleman is seeking to make.

The gentleman from Illinois (Mr. Derwinski) seeks unanimous consent to rescind the agreement heretofore entered into by the Committee of the Whole and to provide that all debate on the Staggers amendment and all amendments thereto close at midnight tonight.

Is there objection to the request of the gentleman from Illinois?

Mr. HOWARD. Mr. Chairman, reserving the right to object, I would like to ask the gentleman from Illinois will the thrust of his unanimous consent request, should it be granted, be that there will be a vote on this bill at midnight tonight or that from midnight on there will be no further debate on any amendment at the desk?

Mr. DERWINSKI. The thrust of the unanimous consent request is that the situation in the House on this bill would be greatly improved if there be explanations available by the gentlemen who offer amendments so that the House could more effectively and quickly dispatch these amendments. It would be the thrust that in so doing we would greatly facilitate disposing of many of these amendments before midnight.

Mr. STAGGERS. I would like to ask the gentleman from Illinois this question: If this request is granted by the House—and I am asking if—and we vote on this amendment and all amendments thereto at midnight tonight we will give all of the amendments at the desk equal time?

Mr. DERWINSKI. No. I cannot agree to that.

Mr. WOLFF. Mr. Chairman, I object.
The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. HEINZ TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. HEINZ. Mr. Chairman, I offer an amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Heinz to the amendment in the nature of a substitute offered by Mr. Staggers:

Page 8, line 18, insert in lieu thereof the following: **[Sec. 103]**

(e) Section 4(d) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(d) Consistent with the objectives of subsection (b) and the objective that crude oil, residual fuel oil, and refined petroleum products which are produced or refined within the United States be totally allocated for use by ultimate users within the United States, no crude oil, residual fuel oil, or refined petroleum product may be exported unless the President, by order, after considering evidence submitted by the person desiring to export such oil or product approves such export upon a finding that such export will in no way contribute to any shortages of any such oil or product within the United States. For purposes of this section, and subsection (a) insofar as it applies to this subsection, the term 'refined petroleum product' includes all petrochemical feed stocks."

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, the rules of the House require that the amendment be germane first to the bill and second to the section to which it is addressed.

Mr. Chairman, I would point out that while the amendment is desirable in controlling exports, the language of the bill at page 44, line 22, deals with the subject of exports. That is the place at which an amendment relating to a prohibition on exports should be addressed.

As the Chair will note, the amendment appears at page 8, line 18, at a section relating to the Emergency Petroleum Allocation Act. And while the statute has within its four corners controls and prohibitions on exports, it would appear quite plain that the language of the amendment would not be germane in the light of the fact that the language elsewhere in the Emergency Petroleum Allocation Act deals with this and the amendment directs itself to setting up a new section there.

It also should be clear that the language of the bill itself at page 44, line 22, and following, has a prohibition on exports of petroleum, petroleum feed stocks, and so forth. Therefore the amendment, although it is offered in the best intention by an able Member of this body, is not germane.

The CHAIRMAN. Does the gentleman from Pennsylvania desire to be heard on the point of order?

Mr. HEINZ. I do, Mr. Chairman.

Mr. Chairman, the first point I would like to make is that the Emergency Petroleum Allocation Act, which **section 103** amends, does deal with export and it does have certain controls placed on exports. My amendment, although it is an amendment to **section 103** of the bill, is in effect, an amendment to the Emergency Petroleum Allocation Act, and therefore is germane on those grounds.

Second, I would like to point out that the amendment that I offer is different from any other amendments that have been offered. In fact, the gentleman from Massachusetts (Mr. Studds), earlier offered an amendment to **section 123** on exports, which was accepted by this body and which, I might point out, does make in **section 123** specific reference to the Emergency Petroleum Allocation Act of 1973.

Finally, Mr. Chairman, I would suggest that the amendment is drawn in such a way as to avoid, and I have had, I might say, lengthy consultations with legislative counsel, an ungermane approach to the question of requiring that any refined petroleum products, including petrochemical feed stock, which are both covered by this bill, be subject to prior authorization by the President of the United States before they may be exported.

The CHAIRMAN (Mr. Bolling). The Chair is ready to rule.

Section 103 does deal with allocations, and the first portion of the amendment offered by the gentleman from Pennsylvania (Mr. Heinz), refers to total allocation within the United States and to the relation between those allocations and exports. The remainder of the amendment is germane to the section of the bill to which offered. Therefore the Chair overrules the point of order.

The question is on the amendment offered by the gentleman from Pennsylvania to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

Mr. HEINZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 152, noes 205, answered "present" 22, not voting 53, as follows:

[Roll No. 684]

AYES—152

Abdnor
Addabbo
Alexander
Anderson, Ill.
Andrews, N. Dak.
Aspin
Badillo
Befalis
Baker
Bauman
Bennett
Bergland
Bevill
Biester
Bingham
Blatnik

Boland
Bowen
Brasco
Bray
Brinkley
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Byron
Camp
Clausen, Don H.
Cochran

Cohen
Collins, Tex.
Conte
Cotter
Cronin
Davis, Ga.
Denholm
Dennis
Derwinski
Donohue
Drinan
Duncan
du Pont
Esbleman
Flood
Flowers

Flynt
Foley
Forsythe
Froehlich
Fuqua
Gaydos
Gettys
Gilman
Ginn
Grasso
Gray
Gunter
Guyer
Hamilton
Hanrahan
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Hogan
Holt
Horton
Hudnut
Jarman
Kastenmeier
Ketchum
Koch
Kuykendall
Landgrebe
Landrum
Latta
Lent
Lehman

Lott
Lujan
McCollister
McDade
Madigan
Mann
Maraziti
Mathis, Ga.
Mayne
Mazzoli
Mezvinsky
Michel
Miller
Minish
Mink
Minshall, Ohio
Mollohan
Montgomery
Mosher
Myers
Nichols
O'Brien
Owens
Parris
Pike
Price, Tex.
Pritchard
Quillen
Randall
Rinaldo
Rogers
Roush
Roy
Ruth
St Germain

Sarasin
Sarbanes
Shipley
Shriver
Sikes
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steiger, Ariz.
Stephens
Stratton
Stuckey
Studds
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thone
Tiernan
Towell, Nev.
Vanik
White
Whitten
Wilson, Charles, Tex.
Winn
Wolff
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, S.C.

NOES—205

Abzug
Adams
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Barrett
Biaggi
Brademas
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Ohio
Burke, Fla.
Burluson, Tex.
Burton
Butler
Carey, N.Y.
Carney, Ohio
Carter

Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Cleveland
Collier
Collins, Ill.
Conlan
Corman
Crane
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Devine
Dickinson
Dingell
Downing

Dulski
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Ford, William D.
Fountain
Fraser
Frelinghuysen
Frenzel
Fulton
Giaino
Gibbons
Gonzalez
Green, Oreg.
Green, Pa.
Gude
Haley
Hammerschmidt

Hanley
Hansen, Idaho
Hansen, Wash.
Hastings
Helstoski
Henderson
Hillis
Hinshaw
Holifield
Holtzman
Hosmer
Howard
Hungate
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Kemp
Kyros
Leggett
Litton
Long, La.
Long, Md.
McClory
McCormack
McFall
McKay
McSpadden
Macdonald
Madden
Mahon
Mallary
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Milford
Mitchell, Md.

Mitchell, N.Y.
Mizell
Moakley
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Obey
O'Hara
O'Neill
Passman
Patten
Pepper
Perkins
Peyser
Pickle
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Quie
Railsback
Rangel
Rarick
Rees
Reid
Reuss
Rhodes
Roberts
Robinson, Va.
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roybal

Ruppe
Ryan
Satterfield
Scherle
Schroeder
Seiberling
Shoup
Shuster
Sisk
Slack
Smith, Iowa
Stark
Steed
Steelman
Steiger, Wis.
Stubblefield
Symington
Symms
Thompson, N.J.
Thomson, Wis.
Thornton
Treen
Udall
Ullman
Van Deerlin
Vigorito
Waggonner
Waldie
Wampler
Whitehurst
Widnall
Wiggins
Wilson, Charles H., Calif.
Yates
Young, Alaska
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

ANSWERED "PRESENT"—22

Beard
Blackburn
Conable
Frey
Goodling
Cross
Grover
Hanna

Huber
Hutchinson
McCloskey
McEwen
McKinney
Pettis
Regula

Rousselot
Schneebeli
Sebelius
Skubitz
Smith, N.Y.
Vander Jagt
Wilson, Bob

NOT VOTING—53

Bell
Boggs
Bollings
Breau
Burke, Calif.
Chisholm
Clark
Clawson, Del

Clay
Conyers
Coughlin
Dent
Diggs
Dorn
Erlenborn
Goldwater

Griffiths
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Ichord

Johnson, Calif.
Keating
King
Kluczynski
Mailliard
Meeds
Melcher
Metcalf
Mills, Ark.
Morgan

Nix
Patman
Riegle
Robison, N.Y.
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes

Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Williams
Wright
Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WYMAN TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. WYMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Wyman to the amendment in the nature of a substitute offered by Mr. Staggers: Page 59, after line 23, insert the following:

(1) Section 202(b) of the Clean Air Act (42 U.S.C. 1857) is amended by adding at the end thereof the following:

"(6) (a) Notwithstanding any other provision of law the authority of the Administrator to require emissions controls on automobiles is hereby suspended except for automobiles registered to residents of those areas of the United States as specified by subsection (b) of this section, until January 1, 1976 or the day on which the President declares that shortages of petroleum is at an end, whichever occurs later.

"(b) Within 60 days after the date of enactment of this paragraph, and annually thereafter, the Administrator shall designate, subject to the limitations set forth herein, geographic areas of the United States in which there is significant auto emissions related air pollution. The Administrator shall not designate as such area any part of the United States outside the following Air Quality Control Regions as defined by the Administrator as of the date of enactment of this paragraph without justification to and prior approval of the Congress.

(A) Phoenix-Tucson, intrastate.

(B) Metropolitan Los Angeles, intrastate.

(C) San Francisco Bay area.

(D) Sacramento Valley area.

(E) San Diego area.

(F) San Joaquin Valley area (California).

(G) Hartford-New Haven (Conn.)-Springfield (Mass.) area.

(H) District of Columbia, Maryland, and Eastern Virginia area.

(I) Metropolitan Baltimore and abutting counties.

(J) New Jersey, downstate New York, and Connecticut area.

(K) Metropolitan Philadelphia and abutting counties area.

(L) Metropolitan Chicago and abutting counties (Ill. & Ind.).

(M) Metropolitan Boston and abutting counties area.

For purposes of this paragraph, the term 'significant air pollution' means the presence of air pollutants from automobile emissions at such levels and for such durations as to cause a demonstrable and severe adverse impact upon public health."

(2) Section 202(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Regulations prescribed under this subsection shall not apply to motor vehicles or motor vehicle engines registered by owners who reside in geographic areas which are not designated by the Administrator under section 202(b)(6) as areas in which there is significant air pollution, for the period beginning

on the date of enactment of this paragraph, and ending on January 1, 1977, or the day on which the President declares that shortage of petroleum is at an end, whichever occurs later."

POINT OF ORDER

Mr. STAGGERS. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. STAGGERS. Mr. Chairman, I rise to the point of order that the gentleman's amendment has already been considered in the committee and rejected.

Mr. DINGELL. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. Does the gentleman from New Hampshire wish to be heard?

Mr. WYMAN. I do, Mr. Chairman.

Mr. Chairman, I checked with the Parliamentarian before offering this amendment. The date has been changed in the amendment. It is now January 1, 1976, and I offer it at this time pursuant to request.

The Chair has already ruled on the point of order.

Mr. DINGELL. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Michigan will be heard on the point of order.

Mr. DINGELL. Mr. Chairman, the author of the amendment has already pointed out to the House that he is again offering precisely the same amendment with the date changed.

In other words, what he is telling us is there is no substantive change in the amendment, and that the changes are cosmetic in character and do not change the quality or the effect of the amendment, except insofar as dealing with the effective date.

I would point out, in my view at least, that this is not a substantive change. This is a matter which was already rejected by the House and, as such, is violative of the rules, and is going back to redo actions already taken by the House.

The CHAIRMAN. Does the gentleman from New Hampshire (Mr. Wyman) desire to be heard further on the point of order?

Mr. WYMAN. Very briefly, Mr. Chairman.

Mr. Chairman, there is a whole year's difference between these two amendments, and I am informed that that is significant.

The CHAIRMAN. (Mr. Bolling). The Chair is prepared to rule.

The Chair reading from Volume 8 of Cannon's Precedents, page 438, section 2840, the heading of which is:

Similarity of an amendment to one previously rejected will not render it inadmissible if sufficiently different in form to present another proposition.

Following the heading, farther down in the discussion, there appears this language:

Mr. Speaker Clark on one occasion ruled that the change of one word in the language of a second amendment caused a deviation making that second amendment in order.

Because the change in this case appears to be substantive, the Chair overrules the point of order.

The question is on the amendment offered by the gentleman from New Hampshire (Mr. Wyman) to the amendment in the nature of a

substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. Moss. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 205, answered “present” 3, not voting 54, as follows:

[Roll No. 685]

AYES—170

Abdnor	Fisher	Mayne
Alexander	Flowers	Michel
Andrews, N.C.	Flynt	Milford
Andrews, N. Dak.	Fountain	Miller
Archer	Froehlich	Minshall, Ohio
Arends	Gettys	Mitchell, N.Y.
Ashbrook	Gialimo	Mizell
Baker	Ginn	Mollohan
Bauman	Gonzalez	Montgomery
Bergland	Gooding	Myers
Bevill	Gray	Nichols
Blackburn	Gross	O'Brien
Bowen	Guyer	O'Hara
Bray	Haley	Owens
Brinkley	Hammerschmidt	Passman
Brooks	Hanrahan	Pepper
Broomfield	Henderson	Pickle
Broyhill, N.C.	Hicks	Poage
Broyhill, Va.	Hogan	Powell, Ohio
Burgener	Holt	Price, Tex.
Burleson, Tex.	Hosmer	Quillen
Butler	Huber	Railsback
Byron	Hudnut	Randall
Camp	Hutchinson	Rarick
Casey, Tex.	Johnson, Colo.	Roberts
Cederberg	Johnson, Pa.	Robinson, Va.
Chamberlain	Jones, N.C.	Rose
Chappell	Jones, Tenn.	Rostenkowski
Clancy	Jordan	Rousselot
Cleveland	Kazen	Ruppe
Cochran	Ketchum	Ruth
Collier	Kuykendall	Ryan
Collins, Tex.	Landgrebe	Sarasin
Conable	Landrum	Satterfield
Cotter	Latta	Scherle
Crane	Litton	Schneebeli
Daniel, Dan	Lott	Sebelius
Daniel, Robert W., Jr.	McClory	Shipley
Davis, S.C.	McCollister	Shriver
Davis, Wis.	McCormack	Shuster
de la Garza	McEwen	Skubitz
Denholm	McKay	Slack
Dennis	McSpadden	Snyder
Devine	Macdonald	Spence
Dickinson	Madigan	Steed
Duncan	Mahon	Steiger, Ariz.
Edwards, Ala.	Mann	Stephens
Esch	Martin, Nebr.	Stratton
Eshelman	Mathis, Ga.	Stubblefield

Stuckey
Symms
Talcott
Teague, Tex.
Thornton
Towell, Nev.
Treen
Ullman

Waggoner
Wampler
White
Whitehurst
Whitten
Widnall
Wilson, Bob
Wilson, Charles, Tex.

Wylie
Wyman
Yatron
Young, Alaska
Young, S.C.
Young, Tex.
Zion

NOES—205

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Annunzio
Armstrong
Ashley
Aspin
Badillo
Bafalis
Barrett
Bennett
Biaggi
Biester
Bingham
Blatnik
Boland
Brademas
Brasco
Breckinridge
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Carney, Ohio
Carter
Clausen, Don H.
Cohen
Collins, Ill.
Conlan
Conte
Corman
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Delaney
Dellenback
Dellums
Derwinski
Dingell
Donohue
Downing
Drinan
Dulski
du Pont

Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Foley
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gibbons
Gilman
Grasso
Green, Oreg.
Green, Pa.
Grover
Gude
Gunter
Hamilton
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hechler, W.Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Holifield
Holtzman
Horton
Howard
Hungate
Jarman
Jones, Ala.
Jones, Okla.
Karth
Kastenmeier
Kemp
Koch
Kyros

Leggett
Lehman
Lent
Long, La.
Long, Md.
Lujan
McCloskey
McDade
McFall
McKinney
Madden
Mallary
Maraziti
Martin, N.C.
Mathias, Calif.
Matsunaga
Mazzoli
Mezvinsk
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Obey
O'Neill
Patten
Perkins
Pettis
Peyser
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Rangel
Rees
Regula
Reid
Reuss
Rhodes
Rinaldo
Rodino
Roe
Rogers

Roncalio, Wyo.
 Rooney, Pa.
 Rosenthal
 Roush
 Roy
 Roybal
 St Germain
 Sarbanes
 Schroeder
 Seiberling
 Shoup
 Sikes
 Sisk
 Smith, Iowa
 Smith, N.Y.
 Stagers

Stanton, J. William
 Stanton, James V.
 Stark
 Steelman
 Steiger, Wis.
 Studds
 Symington
 Taylor, N.C.
 Teague, Calif.
 Thompson, N.J.
 Thomson, Wis.
 Thone
 Tiernan
 Udall
 Van Deerlin
 Vander Jagt

Vanik
 Vigorito
 Waldie
 Wiggins
 Wilson, Charles H.
 Calif.
 Winn
 Wolff
 Wydler
 Yates
 Young, Fla.
 Young, Ga.
 Young, Ill.
 Zablocki
 Zwach

ANSWERED "PRESENT"—3

Beard

Hanna

Parris

NOT VOTING—54

Bell
 Boggs
 Bolling
 Breaux
 Burke, Calif.
 Carey, N.Y.
 Chisholm
 Clark
 Clawson, Del.
 Clay
 Conyers
 Coughlin
 Dent
 Diggs
 Dorn
 Erlenborn
 Goldwater
 Griffiths

Gubser
 Harsha
 Harvey
 Hays
 Hebert
 Hunt
 Ichord
 Johnson, Calif.
 Keating
 King
 Kluczynski
 Mailliard
 Meeds
 Melcher
 Metcalfe
 Mills, Ark.
 Morgan
 Nix

Patman
 Riegle
 Robison, N.Y.
 Roncallo, N.Y.
 Rooney, N.Y.
 Runnels
 Sandman
 Steele
 Stokes
 Sullivan
 Taylor, Mo.
 Veysey
 Walsh
 Ware
 Whalen
 Williams
 Wright
 Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DE LA GARZA TO THE AMENDMENT IN THE
 NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

MR. DE LA GARZA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Stagers).

The Clerk read as follows:

Amendment offered by Mr. de la Garza to the amendment in the nature of a substitute offered by Mr. Stagers:

Sec. 215. Notwithstanding any other provision of law or regulation, any project of enterprise authorized by law or regulations of the Federal Government, regardless of time initiated shall be allowed the necessary fund for all its operations under any rules promulgated for such purposes.

Mr. DE LA GARZA. Mr. Chairman, this amendment is a clarifying amendment to the bill and the part dealing with agriculture. We have situations and one unfortunately in my area where the Congress has authorized a project by law or by regulation that of necessity, because of the imposition of regulations as far as fuel allocations, have no base period on which to judge their criteria for allowing fuel. This amendment says that any project which has been authorized by the Congress or through regulation of the Federal Government would be given an allocation even though it did not have any base. The project in my area, Mr. Chairman, is a new sugar mill, whose allocation of mainland sugar quota has been granted by the U.S. Department of Agriculture. It is intended by this amendment that notwithstanding their not having a base period, they shall nonetheless be given an allocation as needed for all their operations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. de la Garza) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ILLINOIS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. YOUNG of Illinois. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 117] offered by Mr. Young of Illinois to the amendment in the nature of a substitute offered by Mr. Staggers: Add an additional subsection (9) on page 37, after line 4 of the bill as follows:

"(9) Any action or proceeding under subsections (3) (A) and (B) of this section to determine windfall profits or to recover windfall profits under this Act must be brought within one year after the expiration of this "Emergency Energy Act" or any extension thereof. Further, it is expressly provided that windfall profits as defined in this section refer only to profits earned during the period beginning with the enactment of this Act and ending on the date of the expiration of this Act, or any extension thereof."

Mr. YOUNG of Illinois. Mr. Chairman, I ask unanimous consent to speak for 1 minute to explain this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. YOUNG of Illinois. Mr. Chairman, this amendment does two things. It clarifies the fact that the earnings which would be subject to the windfall profits section are determined from the beginning of the enactment of the act until the expiration of the act or any extension thereof. I think it is only explanatory of what the law would be anyway but it clarifies it.

The second thing the amendment does is to put a statute of limitations within which an action under the section to recover a windfall profit must be brought.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Young to the amendment in the nature

of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HANLEY TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. HANLEY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Hanley to the amendment in the nature of a substitute offered by Mr. Staggers: On page 4, line 11, and page 10, line 25, strike out "and" after "agriculture," and insert "collection, transportation and delivery of mail by the United States Postal Service, its lessors, contractors and carriers, and" before "transportation services".

Mr. HANLEY. Mr. Chairman, I ask unanimous consent to proceed for 1 minute to explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HANLEY. Mr. Chairman, at this time I wish to offer an amendment to **sections 103(a) and 105(b)** of H.R. 11450, the Energy Emergency Act. My amendment would include the "collection, transportation, and delivery of the mail by the U.S. Postal Service, its lessors, contractors, and carriers" within the enumerated "vital services" of proposed new section (h) (1) of the Emergency Petroleum Allocation Act of 1973 as provided in **section 103(a)** of H.R. 11450. In addition, it would amend the same language in **subsection (b) of section 105**, which is entitled Energy Conservation Plans.

The purpose of these amendments is to make it clear that mail service is to have a high priority in the allocation of fuel. In my position as chairman of the Subcommittee on Postal Service of the Committee on Post Office and Civil Service I have become aware of the necessity for the Postal Service and its contractors to receive the fuel they need to deliver the mail in a prompt and efficient manner. It is essential for the wellbeing of the Nation that we adopt this amendment.

Postal Service highway vehicles range from passenger type units to large, long-haul, double bottom trailers. They include: First, the postal owned and operated fleet of 102,000 vehicles which travel approximately 615-million miles a year; second, approximately 82,000 vehicles utilized by city and rural carriers under contract or leased for collection or delivery services—these vehicles travel approximately 845-million miles a year; and third 40,000 vehicles under contract to transport mail which travel approximately 700-million miles a year. A total of 224,000 motor units traveling approximately 2.2-billion miles per year are involved in the collection, transportation, and delivery of the U.S. mail.

In addition, contract air service is provided by air taxi operators over 175 different routes. These aircraft travel approximately 24 million miles a year.

The Postal Service utilizes both certified air and rail carriers for the transportation of mail. Most domestic and international U.S. flag carrier flights are used to transport mail. By rail, approximately 450 piggyback units a day are dispatched along with 21 Amtrak trains—each having 1 to 3 cars of mail—and 11 unit mail trains which carry a portion of the piggybacks which I mentioned before.

To keep their highway vehicles and air taxis moving the Postal Service and its contractors use approximately 350 million gallons of fuel a year: 120 million gallons of diesel; 226 million gallons of gasoline; 8 million gallons of aviation gas; and 4 million gallons of turbine aviation fuel. This is exclusive of the quantity of fuel utilized by rail and certified air carriers.

This fuel is obtained from both bulk and retail outlets depending upon the size and location of the operation. A great many of the operations include small vehicles obtaining fuel from local retail outlets.

The Postal Service has attempted to conserve available fuel supplies. Due to the forecasts of shortages of gasoline for the summer of 1973, the Postmaster General issued instructions to postal field units in May 1973, which limit postal vehicle speeds to 50 miles per hour; establish high quality maintenance programs; and require operators to accelerate slowly and shut off engines during stops.

The shortages of gasoline which we experienced last summer has now developed into a shortage of all petroleum fuels. Scheduled flights of certified air carriers have been substantially reduced in the past few months. About 300 scheduled flights were canceled in November and approximately 250 scheduled flights will be canceled this month with an additional 1,000 to be canceled by January 7, 1974. The Postal Service will be required to divert mail to other means of transportation.

However, compounding the difficulty in this regard is a recent Federal Register Notice stating that the airlines are no longer required to give the Postal Service 10 days notice before canceling a flight. In addition, the Postal Service's request for diesel fuel allocation for the month of December was cut by 11 percent—or 1 million gallons—by the Office of Petroleum Allocation. These actions can only result in delayed mail service.

The Postal Service has implemented a number of fuel conservation programs in an effort to reduce its fuel requirements. The instructions issued in May 1973 by the Postmaster General have been reemphasized. In addition, the Postal Service is shifting from highway transport to piggyback rail service wherever practicable. This action should result in a yearly net savings of approximately 4.6 million gallons of diesel fuel or 4.6 percent of the total usage.

The Postal Service is also consolidating more highway trips, improving loading to reduce trip frequency, consolidating mail and fast freight trains, reducing air taxi mileages and adjusting collection, delivery and local cartage services of postal vehicle operations. In addition, the reduction of speed limits on limited access highways to 55 miles per hour, which will affect postal contract tractor-trailers, will result in a 5-percent reduction in diesel fuel usage—a savings of 5 million gallons a year.

The Postal Service can only do so much on its own to continue to provide prompt, reliable, and efficient mail service to our constituents. Congress must assist them in this task. For this reason I ask my colleagues to join me in supporting these amendments to clarify the position of mail service as one of the vital services to receive top priority in any ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Hanley) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. [Secs. 103(a) and 405(b).]

AMENDMENT OFFERED BY MR. McCLORY TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. McCLORY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 107] offered by Mr. McClory to the amendment in the nature of a substitute offered by Mr. Staggers: on Page 16 following line 14, add the following new paragraph and renumbering the ensuing paragraphs accordingly:

"(c) The revision of regular airine schedules, including the elimination of scheduled flights shall be permitted only pursuant to authority granted by the Civil Aeronautics Board. In exercising this authority, the Civil Aeronautics Board shall report to both Houses of the Congress within 30 days following such approved revision of plane schedules or elimination of regularly scheduled plane flights. The Civil Aeronautics Board shall be empowered to reinstate any such revised plane schedules or elimination of commercial air flights as to which both Houses of Congress shall by affirmative vote overrule any such orders of the Civil Aeronautics Board, and with respect to which the Congress shall find that such joint Congressional action shall not jeopardize the energy control purposes of this legislation.

Mr. McCLORY. Mr. Chairman, I ask unanimous consent to proceed for 1 minute and to revise and extend my remarks.

Mr. HOSMER. Mr. Chairman, I object.

Mr. DINGELL. Mr. Chairman. I do not object, but I do rise on a point of order.

The CHAIRMAN. The gentleman from Illinois asked unanimous consent to proceed for 1 minute.

The Chair recognizes the gentleman from Michigan.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DINGELL. Mr. Chairman, I regretfully make my point of order.

Mr. Chairman, the amendment offered by the gentleman substitutes an entirely new procedure and requires a proceedings essentially similar to or identical to that required by the Reorganization Act on reorganization in connection with actions to be taken by a Federal

regulatory agency. Nowhere else in the bill which is now before us is any language imposing that kind of a procedure or process of congressional approval over the Federal regulatory agencies.

For that reason, Mr. Chairman, the amendment is not germane and falls as violative of the rule of germaneness. Since we are not engaging in an action or after an authority to the regulatory agency involved, but rather to set up an entirely new procedure involving congressional action, congressional approval of agency actions through a device which is totally different than that found anywhere else in the bill.

Mr. McCLORY. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Illinois may be heard.

Mr. McCLORY. This merely provides that in connection with reporting to the Congress by the Civil Aeronautics Board, the reports are already provided for in this bill; should they report any discontinuance of service of any airlines or consolidation of service which would jeopardize the jobs of pilots and other airline personnel in addition to this section, because it really augments the section with regard to reports.

I understand this essential or basic point is in the Senate version of this bill. I would like to have it in the House bill so it will be there when the measure goes to conference.

The CHAIRMAN. Does the gentleman from Texas desire to be heard on the point of order?

Mr. ECKHARDT. Mr. Chairman, I should like to be heard on the point of order.

Mr. Chairman, although the last question that escaped the point of order was that it seems marginally acceptable, this goes way beyond it. In that case sections of the bill directed precisely to the question of allocation were submitted to a recheck by Congress. In this section, the only thing that the bill has done is provided an emergency process by which a regulatory agency may exercise additional authority.

What is sought to be done here is to subject the processes of that agency with respect to doing its normal duties to a recheck by Congress, and it is a wholly new procedure not envisaged in the original acts creating and authorizing those agencies, thus calling for a second judgment on a question of policy by Congress.

Mr. Chairman, I submit that the matter is not germane.

The CHAIRMAN. (Mr. Bolling). The Chair will rule.

The Chair has had an opportunity to examine the language appearing on page 15, **section 107**. It appears to the Chair that insofar as the amendment is concerned, it represents a restriction in the exercise of the power outlined in **section 107(a)**, so the Chair feels that the amendment is germane to the matter and overrules the point of order.

Mr. McCLORY. Mr. Chairman, I ask unanimous consent to proceed for 1 minute, and to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. HOSMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. McCLORY. Mr. Chairman, I ask unanimous consent to extend and revise my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, this measure appears to be deficient in protecting public and employee rights and interests in connection with the rescheduling or elimination of flights of commercial aircraft.

Mr. Chairman, there should be definite protection against any curtailment of air service—or layoffs of air personnel under the guise of a conservation of jet fuel or other petroleum products or energy sources—unless it is established that such conservation actions are required in carrying out the purposes of this act.

Mr. Chairman, it does not seem to me that air carriers either individually or in combination with other carriers should be permitted to curtail services without first receiving the approval of the Civil Aeronautics Board. Indeed, it would be preferable to have the Congress review orders of the Civil Aeronautics Board rendered in relation to any such curtailments of service.

Mr. Chairman, this legislation should not be a vehicle to relieve air carriers of essential regulation—as required under existing law. Furthermore, it should not be interpreted as a means for discontinuing essential or convenient service to the public. Above all, this measure should not make it possible for air carriers to reap excessive or wind-fall profits at the expense of their employees—and the public.

Mr. Chairman, I am offering an amendment to **section 107** of the substitute bill—H.R. 11882—intended to correct the defects in this legislation which I have outlined. I hope that my amendment will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McClory) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. ROGERS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ROGERS. Mr. Chairman, I offer an amendment [**Sec. 209**] to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Rogers to the amendment in the nature of a substitute offered by Mr. Staggers: Page 67, after line 26, add the following:

“(3) For the purpose of this section, the term ‘motor vehicle’ means any self-propelled vehicle weighing 6,000 pounds or less designed for transporting persons or property on a street or highway, except for police, fire, ambulance, and other emergency vehicles.

“(b)(1) Subject to paragraph (2) and (3), not later than 30 days after submission of the results of the study under subsection (a), the Administrator shall submit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Public Works of the Senate proposed legislation which would establish a 25 per centum fuel economy improvement standard applicable to 1980 and later model new motor vehicles. Such improvement shall be calculated from a baseline of the fuel economy performance of each manufacturer’s entire annual production of the 1974 model year new motor

vehicles (as measured over the 1974 certification test cycle prescribed pursuant to section 206(a)).

"(2) If the Administrator determines that establishing a fuel economy improvement standard of 25 per centum for 1980 and later model new motor vehicles—

"(A) is technologically or economically unfeasible,

"(B) cannot be complied with safety and without interfering with applicable emission requirements, or

"(C) will have unreasonably disruptive impact on employment or the economy, he shall propose legislation establishing such lesser fuel economy improvement standard which he determines is as close to 25 per centum as possible without having any of the effects described in subparagraphs (A), (B), or (C).

"(3) The legislation proposed by Administrator may propose the establishment of a less than 25 per centum fuel economy improvement standard for any manufacturer whose entire 1974 annual production of new motor vehicles meets or exceeds fifteen miles per gallon of gasoline (or other fuel). Any lesser standard under this paragraph shall be as close to 25 per centum as possible for that manufacturer without having any of the effects described in (A), (B), or (C) of paragraph (2) of this subsection.

POINT OF ORDER

Mr. BROYHILL of North Carolina. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BROYHILL of North Carolina. Mr. Chairman, I make the point of order that this amendment is not germane, that we have no other subject matter such as this in the bill, and, furthermore, that the House of Representatives or the Congress in prior action has authorized another Department of the Federal Government to undertake the same study, and thus this amendment is not in order.

Mr. ROGERS. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Florida may be heard on the point of order.

Mr. ROGERS. Mr. Chairman, actually this simply carries out part of the provision in the law which provides for a study on how this can be accomplished.

All this amendment does, in connection with that study, is to say the following: Where that study says, "He shall report to the Congress," this simply says or sets forth the manner in which he shall do that, by proposing specific legislative proposals that we ourselves would rule on, as the results of a study. And then he proposes how we can save fuel mileage.

That is all it is doing. It is set at 1980, and it simply carries out what we are trying to do in that study by having him report to the Congress.

It simply tells him how he shall make his report to the Congress, that it is proper and economically feasible.

Mr. HASTINGS. Mr. Chairman, I desire to be heard on the point of order.

The CHAIRMAN. The gentleman from New York may be heard on the point of order.

Mr. HASTINGS. Mr. Chairman, in the 1974 appropriation bill, this Congress by the votes of over 400 Members appropriate \$2,400,000 to the Department of Transportation to conduct a study to achieve a 40-percent reduction in fuel consumption by automobiles.

Now, we go to the Environmental Protection Agency to give it the same authority and, therefore, we have two separate agencies of the Federal Government spending money on the very same studies.

Mr. ROGERS. Mr. Chairman, if I may be heard further on the point of order, it is not the same as the other. Rather, it is specifically different, because that is simply for a demonstration project to be done in that one instance. This is to propose legislation on how to bring some fuel economy to the American people.

The CHAIRMAN (Mr. Bolling). For the reasons stated by the gentleman from Florida (Mr. Rogers), the Chair overrules the point of order.

The question is on the amendment offered by the gentleman from Florida (Mr. Rogers) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. BAKER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. BAKER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 106(d)] offered by Mr. Baker to the amendment in the nature of a substitute offered by Mr. Staggers: On page 15, strike lines 13 and 14 and insert in lieu thereof the following:

"(d) COAL PRODUCTION AUTHORITY.—The Administrator may take such actions as are necessary to assure an adequate supply of coal to attain the objectives of this section, including, but not limited to, the granting of exemptions from provisions of the Economic Stabilization Act which inhibit the ability of coal producers to obtain the necessary equipment and personnel for production and distribution of coal; and the granting of exemptions, on a case-by-case basis, from provisions of the Federal Coal Mine Health and Safety Act, in such cases as mines located above the water table or in which methane has not been detected as prescribed in section 303(h) of such Act, where it has been determined (1) that such provisions substantially reduce the ability of the producer to provide necessary supplies of coal in an economical manner, and (2) that the exemption will not materially affect the health and safety of employees of that producer."

"(e) EXPIRATION.—The authority under this section (other than subsections (b) and (d)) shall expire on May 15, 1975."

POINT OF ORDER

Mr. ECKHARDT. Mr. Chairman, I raise a point of order against the amendment on these grounds. The amendment is not germane in that it deals with the subject matter of another committee, the Committee on Education and Labor; in that it purports to amend the Federal Coal Mine Health and Safety Act under the exclusive jurisdiction of that committee; and it proposes to assign to the Administrator the ability to grant exemptions under that act, which is in no wise amended or altered by this provision.

Mr. BAKER. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. BAKER. Mr. Chairman, on page 5 of the bill [Sec. 103] under consideration, line 22, the President is urged to take such action consistent with the provisions of this act and is authorized to take under this act and any other act action to encourage full production by the domestic energy industry at levels which make possible the expan-

sion of facilities required to insure against a protraction in any such increased levels of unemployment. The amendment would increase employment in its implementation.

On page 7, line 22, and on to page 8 [Sec. 103], the act calls for the production and extraction of minerals essential to the requirements of the United States. This would further enhance employment in the Nation.

Then on page 14 [Sec. 106(b)] it says nothing in the paragraph that should be interpreted as requiring such source to use a particular grade of coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Many of the small mines here would come under the provisions of this amendment.

I ask that the point of order be overruled.

The CHAIRMAN (Mr. Bolling). The Chair is prepared to rule.

The language that appears on page 7, beginning at line 22, cited by the gentleman from Tennessee, says:

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

“(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance or exploration for, and production or extraction of—

“(1) fuels, and

“(2) minerals essential to the requirements of the United States, and for required transportation related thereto;”.

The Chair believes that that language, together with the language cited on page 5 urging full production by the domestic energy industry, justifies the offering of this amendment which deals with coal production despite the point made by the gentleman from Texas with regard to the narrow construction of the section to which it is offered and, therefore, overrules the point of order.

The gentleman from Tennessee is recognized for 5 minutes in support of his amendment under clause 6 of rule XXIII.

Mr. BAKER. Mr. Chairman, this amendment addresses itself to the production of sufficient coal to satisfy current demands.

A considerable segment of our coal-producing areas include many small mines which are not now in operation. Much of this is occasioned by the application of the provisions of the Federal Coal Mine Health and Safety Act where actual need does not exist. The determinations of application of this law are simply made on too broad a basis.

There are many jobs available in the coalfields if we can make the deep hole mine operations profitable. I will tell you there is no better example of the free enterprise system in America than that expressed in the group of independent mine operators in the hills of this Nation.

If the Economic Stabilization Act and the Federal Coal Mine Health and Safety Act, in the opinion of the Administrator, hinders the pursuit of the best interests of the Nation and its citizens, then this amendment would allow relief to the extent to which it is practicable.

I know of no operator who is not deeply concerned about safety and health. All of these operators come from the mines themselves and take a full responsibility for the miners and their families.

This is no broadside attack on the Economic Stabilization Act which expires in April next year and Mine Safety Act. It is a vehicle to make the production of coal more attractive, to make coal available

for public need, and to provide some jobs where others are being eliminated. Every exception which might be made will be accomplished on a case-by-case basis.

This amendment does not direct the Administrator to do anything. It allows him to take action to accommodate the requirements sufficient to encourage mine operators to make many small mines in this Nation productive.

I urge the adoption of this amendment.

Mr. STAGGERS. Mr. Chairman, I rise to oppose the amendment offered by the gentleman from Tennessee (Mr. Baker) and I do so with reluctance because I know the good intentions of the gentleman.

Mr. Chairman, I request that I be recognized under the rule to speak in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized to speak under the same rule.

Mr. STAGGERS. Mr. Chairman, this amendment would abrogate certain provisions of the Federal Coal Mine Health and Safety Act to allow a general exemption from that act. We do not know the full ramifications of it. There have been no hearings held on it. We do not know what it will do. I would not want to take the life of any man who works in the coal mines. I have seen too many men who went out to work in the morning and who did not return in the evening. I just do not want to risk the health of those men.

I am not doubting the good intentions of the gentleman from Tennessee on this, because I know they are the best of intentions in offering his amendment. But I believe we should vote this amendment down. If necessary, we could have some hearings on it, and see where we would want to go on this.

As I say, we held no hearings in our committee on this. I am certain the regular committee has not held any hearings on this. I believe if this were before the regular committee that is entitled to look at this matter that they probably would vote it down.

I do not know what our committee could do on it, but I am pretty certain that they would vote it down.

As I say, I have seen too many men go to work in the morning and never come back in the evening, and I would not want that to happen to any man in America. So I would urge that this amendment be defeated.

Mr. FREY. I thank the Chairman for yielding.

Another part of the amendment in the way it is drawn has the expiration date of the entire language of this bill expiring on May 15, 1975. As I read the amendment, the authority for these two sections would not expire whatsoever. It would cause a tremendous conflict within the bill as written, and I think, although I certainly commend the gentleman for what he is trying to do, that this is not the way to do it.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from West Virginia.

Mr. HECHLER. of West Virginia. I thank the chairman for yielding.

Mr. Chairman, I have just returned from the convention of the United Mine Workers of America in Pittsburgh. The spirit of those coal miners has never been so high under their reform leadership and

international president, Arnold Miller. The coal miners of this Nation are ready, willing, and eager to perform their patriotic duty by mining the coal necessary to meet the energy crisis. The demand for coal will require the employment of thousands of additional miners. It is absolutely essential that all miners be protected and that the energy crisis not be used as an excuse to weaken the protection of the Mine Safety Act. This is no time to weaken the Federal Coal Mine Health and Safety Act of 1969 which this Congress worked so hard to pass.

The number of deaths and injuries in the coal mines are still far too high in this most hazardous occupation in the Nation. Under the leadership of the safety division of the United Mine Workers of America great progress is being made. Now is not the time to turn the clock back and put the emphasis on production instead of protection. I think that for the sake of the energy crisis this would be a terrible time for the Nation to weaken the 1969 Federal Coal Mine Health and Safety Act.

I want to assure the gentlemen in this Chamber that there is no indication and no idea in my mind of weakening the Health and Safety Act among the miners. I have many of them in my district. I just want the unreasonable provisions recognized in the Mine and Safety Act, and somebody in authority ought to take recognition of the fact that the mine operators, the little mine operators, should not spend unnecessary money or put themselves out of business when they could be mining safely, if we were to recognize the true conditions that exist.

MR. STAGGERS. I recognize the integrity of the gentleman and his intentions, but I do not believe this is the place to do it. I believe it should be done in regular order, so I urge that the amendment be defeated.

THE CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. Baker) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the yeas appeared to have it.

MR. BAKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. FRASER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

MR. FRASER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 116] offered by Mr. Fraser to the amendment in the nature of a substitute offered by Mr. Staggers: Page 31, after line 17, insert the following new subsection:

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

Redesignate the succeeding subsections of section 116 accordingly.

THE CHAIRMAN. The Chair recognizes the gentleman from Minnesota under clause 6 of rule XXIII for 5 minutes.

MR. FRASER. Mr. Chairman. I do not believe I will need the 5 minutes. I have checked this with both sides, the managers of the bill, and I hope they find it acceptable.

The purpose of my amendment is to make regional transportation planning agencies eligible for carpool funding under **section 116** of this bill.

Since 1962, regional planning agencies, operating under **section 134** of the Federal-Aid Highway Act, have attempted to identify their region's long-range transportation needs and outline alternative ways of dealing with current transportation deficiencies.

In most of the larger metropolitan areas, the **section 134** agency, recognized by the Department of Transportation, is the areawide planning and coordination agency charged with the responsibility for undertaking comprehensive physical, social and economic planning for its metropolitan region.

Often these regional agencies span State lines. In the case of the Washington Metropolitan Area Council of Governments, parts of two States and the District of Columbia are covered. The Washington COG is currently operating a computerized carpool matching program. My amendment would enable the Washington COG to receive direct funding for its carpool system, provided that it continues to serve as the regional transportation planning agency under the terms of the Federal-Aid Highway Act.

The areawide comprehensive planning agencies are usually composed of elected officials representing local governments within the metropolitan area. My district, Minneapolis, happens to be part of a metropolitan region, whose areawide agency is organized somewhat differently. Our metropolitan council is an independent unit of government operating under State law. Its 15 members are appointed by the Governor of Minnesota. Transportation planning is only one of the council's wide ranging responsibilities.

Mr. Chairman, the new **section 116** car pool matching program represents a hopeful new effort to conserve energy and improve regional transportation systems at the same time. To be effective, any systematic car pool matching program should cover an entire metropolitan area. Obviously, we cannot expect each municipality within a metropolitan region to provide a car pool matching service for its residents.

It makes sense, then, to link the new **section 116** program with ongoing efforts to develop more effective regional transportation programs. My amendment seeks to do this by making the one agency that knows the most about its area's transportation needs, the **section 134** transportation planning agency, eligible for funding under **section 116** of the Energy Emergency Act.

Mr. BROYHILL of North Carolina. Mr. Chairman. I agree that the urban transportation planning organizations that operate beyond city lines should certainly be recognized in the bill.

I have only one question and that is: What is **section 134** of title XXIII, United States Code?

Mr. FRASER. That is the section of the Highway Act that states that there shall be formulated a comprehensive transportation plan in urban areas of over 50,000 and under an amendment in 1973 each State is required to designate an agency to carry on that planning.

Mr. BROXHILL of North Carolina. That was my understanding. I just wanted to get that definition in the Record.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. Chairman, I rise in support of the amendment.

I want to add my strong endorsement to the amendment offered by my colleague, the gentleman from Minnesota. There are more than 30 urban areas in the United States that cut across State boundaries. Often the only effective way to achieve a coordinated urban transportation policy in these areas is through regional planning agencies which include representatives from all the constituent governments in the area. In this area such an agency is the Metropolitan Washington Council of Governments which has already begun a computerized car pool matching program for the entire metropolitan area, including portions of Maryland, Virginia, and the District of Columbia. These jurisdictions working individually could not hope to create effective plans for the entire region. This amendment would permit regional groups such as COG to perform a valuable service in developing efficient car pool systems.

Without question, car pooling has been shown to be one of the most effective ways of reducing motor vehicle traffic and thereby, gasoline consumption, all at considerable savings to the commuter. One study has shown the cost of a 10-mile commuter trip in a large urban area by one person in an auto to be \$2.64. Various modes of rail transit ranged between \$1.66 and \$2.52 per ride, while a bus trip was estimated at \$0.86. However, car pooling would reduce the per person cost to \$0.88 if there were three riders, and only \$0.66 if there were four riders. Moreover, if everyone joining a car pool stopped driving on his own, then every four-man pool represents a 75-percent savings on gasoline consumption. It makes good sense to encourage car pools, and it is only practical that we make available funds to all those agencies which can create effective car pools, as this amendment proposes.

Mr. STAGGERS. Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Fraser) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. [Sec. 116.]

AMENDMENT OFFERED BY MR. MARTIN OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MARTIN of North Carolina. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 103] offered by Mr. Martin of North Carolina to the amendment in the nature of a substitute offered by Mr. Staggers: On page 6, at line 6, strike the period, and add: " : *Provided, however,* That any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic non-discriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel upon payment of a free or user charge on a per unit basis to the Federal Energy Administration."

POINT OF ORDER

Mr. STAGGERS. Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane.

The CHAIRMAN. Does the gentleman from North Carolina desire to be heard on the point of order?

Mr. MARTIN of North Carolina. Mr. Chairman, I certainly would.

Mr. STAGGERS. Mr. Chairman, I make the point of order on the amendment on the ground that it authorizes a users fee in the nature of a tax and that is not supposed to come within the jurisdiction of our committee. That authority is delegated to the Ways and Means Committee.

Mr. MARTIN of North Carolina. Mr. Chairman, I believe that the amendment is germane and pertinent to the section dealing with gasoline rationing. Far be it from me to test my experience against the experience of the chairman and for the most part I throw myself on the parliamentary wisdom and fairness of the Chair.

I will make one telling point. This amendment does not propose a tax as such and so does not run afoul of the prerogatives of the honorable Committee on Ways and Means. Instead it proposes an administrative fee to be charged, much as fees are charged by the National Park Service under the Golden Eagle plan for use of our park resources. This fee as I propose it would be charged for preferential use of any extra limited fuel resources.

The CHAIRMAN. The Chair is constrained to sustain the point of order on the ground that this amendment in effect would result in a tax not directly related to the rationing authority conferred by the amendment in the nature of a substitute.

AMENDMENT OFFERED BY MR. MARTIN OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MARTIN of North Carolina. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 103] offered by Mr. Martin of North Carolina to the amendment in the nature of a substitute offered by Mr. Staggers: On page 6, at line 6, strike the period, and add: "*Provided, however,* That any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic nondiscriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel."

Mr. MARTIN of North Carolina. Mr. Chairman, under the rule may I be heard in support of my amendment?

The CHAIRMAN. The gentleman can ask unanimous consent for time.

Mr. MARTIN of North Carolina. Mr. Chairman, I would ask unanimous consent first to explain that my second amendment is but a truncated amendment.

The CHAIRMAN. How much time does the gentleman desire to ask unanimous consent for?

Mr. MARTIN of North Carolina. Mr. Chairman, I ask unanimous consent to proceed for 3 minutes.

Mr. HOSMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MARTIN of North Carolina. Mr. Chairman, my amendment proposes that in the event this Nation has to go to rationing of gasoline, as authorized by this bill, that we only do so on an equitable and fair basis; without having to have a cumbersome administrative apparatus to decide how much, if any, extra to allocate. We have all heard the appeals of traveling salesmen, hobbyists, tourists, sportsmen, large car owners, or the worker who lives a distance from his job.

My amendment provides that for personal automobiles or recreational vehicles, each consumer would get a basic ration—with no governmental favoritism for the hundreds of cases that will be brought asking for special treatment. No administrator will then have to decide whether one customer or one class of customers is entitled to a little more gasoline at the expense of somebody else. It provides instead that some extra share or ration can be obtained by any citizen exercising his or her own decision. The extra coupons, if that device is used, could be purchased from the administrator at a higher net price, or by meeting whatever other nondiscriminatory condition might be imposed. The decision would then be made on the basis of an economic consideration of need or value—rather than on administrative consideration.

A very important issue is at stake here. This bill before us already authorizes the President to establish gasoline rationing—or “end use allocation to individual consumers”—subject to legislative veto. It gives no direction as to the principles to be followed in any rationing system.

We need to give some direction. If on the one hand, we want rationing to be complete, with elaborate and ponderous administrative machinery for deciding which appeals for extra rationing are justified and which are not, which consumer has an essential case and which does not, if this is what we want, then we should amend the bill accordingly. I do not want this, because it would be chaotic and would lead to blackmarket profiteering.

If, on the other hand, we want rationing to be nondiscriminatory, with no preferential treatment of some consumers or classes for their personal automobiles or recreation, then we should amend the bill accordingly. And this is the objective of my amendment. It will indicate that we want a minimum of new bureaucracy; that we want special treatment only for vital areas of public safety, health, agriculture, and so forth, listed on page 4, line 9 of H.R. 11882 as reported; that we want any available reserve of gasoline, over and above that needed for these vital services and for the basic ration, to be offered to the public at a higher net price, for a fee payable to the Office of the Administrator.

This is what my amendment seeks to do, to preserve as much as possible of market and economic considerations instead of letting all decisions on distribution be made by the Government.

These are two different choices, but it may be that we do not want to give any direction, so that when the buck is passed we will just “duck the buck.” In that case we should vote down all amendments on rationing, and just sit back and let somebody else lead this country.

Mr. Chairman, I hope the members of the committee will favor my amendment. It runs counter to the idea that Government is omniscient and can establish a complete set of priorities for the use of scarce fuels. It is not so much an ideological amendment as it is a pragmatic one.

It does not freeze out the poor, for they would be entitled to the same basic ration as anyone else, without having to qualify for it or buy it. They would be no worse off than they are now, perhaps better. It does not favor the rich any more than the vast majority—middle income consumers—who have their own job requirements for extra gasoline, their own hobbies, their own sporting interests. Under my amendment, if rationing comes, they would decide for themselves how to balance their needs—and wants—against economic considerations. Each could decide whether to pay the higher price or to ride the city bus, or join a carpool, or use a telephone more, or otherwise reduce consumption as an alternative to going above the basic ration.

Such a system would be equitable in sharing the shortage. It could be set up quickly and would minimize the bureaucracy. And it would let economic considerations comparable to the free market determine any extra allocations, and would tend to reduce demand.

I hope it will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. Martin) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and on a division (demanded by Mr. Martin of North Carolina) there were—ayes 53, noes 91.

So the amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. ULLMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ULLMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 105] offered by Mr. Ullman to the amendment in the nature of a substitute offered by Mr. Staggers: Page 11, insert after line 11 the following:

(d) Nothing in this section or any other provision of this Act or of the Emergency Petroleum Allocation Act of 1973 shall be construed as authorizing the imposition of any tax.

(By unanimous consent, Mr. Ullman was allowed to proceed for 1 minute.)

Mr. ULLMAN. Mr. Chairman, this is a very simple amendment which merely makes it crystal clear that nothing in this act portends to or does grant away any of the taxing power of the Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. Ullman) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to [Sec. 105].

AMENDMENT OFFERED BY MR. EDWARDS OF ALABAMA TO THE AMENDMENT
IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. EDWARDS of Alabama. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Edwards of Alabama to the amendment in the nature of a substitute offered by Mr. Staggers:

On page 46, line 16, delete the word "paragraph" and insert the word "section."

On page 47, line 1, add a new section 119(a)(2) as follows:

"The Administrator shall, for any period beginning on or after the date of enactment of this section, temporarily suspend any stationary source fuel or emission limitation or other environmental protection requirement as it applies to any energy producing facility or refinery, if the Administrator finds that such facility or refinery will be unable to comply with such limitation during such period because of the unavailability of plant equipment or materials needed to construct an emission reduction system or other antipollution system and that such facility or refinery has entered into a contractual obligation to obtain the plant equipment or materials needed for such a system. A suspension granted under this paragraph shall be granted only for the period during which the facility or refinery to which it applies can reasonably be expected to be unable to obtain the plant equipment or materials needed to construct an emission reduction system or other antipollution system necessary to permit compliance with the stationary source fuel or emission limitation or other requirement which it suspends," and renumber the succeeding sections accordingly.

On page 52, line 7, deleted subsection (e) of section 119 and add a new subparagraph (e) as follows: "No State or political subdivision may require any person, energy producing facility or refinery, to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension or to meet any requirement the compliance with which is prevented by the unavailability of plant equipment or materials needed to construct an emission reduction or other antipollution system (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (b) or a compliance schedule under subsection (a)(2)(A)(iii) including any requirement under subsection (a)(2)(B)(i). No State or political subdivision may require any person to use an emission reduction system for which priorities have been established under subsection (c) except in accordance with such priorities."

POINT OF ORDER

Mr. ROGERS. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROGERS. Mr. Chairman, I must be constrained to make a point of order against this amendment. In checking the amendment, if one examines it carefully, it would amend the Federal Water Pollution Control Act, the Occupational Health and Safety Act, the Ocean Dumping Act; the Public Works Committee would be infringed upon; the Committee on Education and Labor would be infringed upon; the Committee on Merchant Marine and Fisheries would be infringed upon.

It is not Germane. It also would amend the Solid Waste Disposal Act and the Coal Mine Health and Safety Act. It is not limited in time, nor constrained by any relationship to fuel shortage.

For all these reasons, a careful examination, I would think, would show that it is not germane and, furthermore, these matters have been already handled in the bill.

The CHAIRMAN. Will the gentleman from Florida cite the specific language? The Chair is concerned, because he has reference to page 46 of the committee amendment in the nature of a substitute, **title II**, and the language appearing on that page and thereafter.

Mr. ROGERS. Mr. Chairman, I think if the Chair would direct its attention to about the sixth line of the amendment, where it says, "Or other environmental protection requirement," which violates all of these other laws that this does not apply to at all, "To any energy producing facility or refinery."

The Chair can also direct its attention on the bottom, about four lines up, where it begins, "To meet any requirement the compliance with which is prevented by the unavailability of plant equipment or materials needed to construct an emission reduction or other anti-pollution system," so the language here is so broad it goes far beyond this act. It is an infringement on all of these other laws and on all the jurisdiction of these other committees.

The CHAIRMAN. Does the gentleman from Alabama (Mr. Edwards) desire to be heard on the point of order?

Mr. EDWARDS of Alabama. I would like to be heard, Mr. Chairman.

Mr. Chairman, first of all, let me say that I am impressed that I have been able to amend this many different acts and infringe upon this many different committees without realizing it.

This comes under the section called Suspension Authority, and in that section the Administrator is empowered to suspend the type of fuel an industry is required to use if it is not available.

By the same token, my amendment is limited to energy producing facilities or refineries which we desperately need now. And all it simply says is that if, in an effort to comply with EPA requirements, the Administrator finds that the material is not available, the Administrator has the right to suspend the requirement until the material is available if, in fact, the industry has made a good faith effort and a contract to obtain this equipment.

Mr. Chairman, to me this is a vital part of this particular legislation, trying to find ways to conserve fuel under the Emergency Energy Act. I think it is right on all fours with what this section is designed to do.

The CHAIRMAN (Mr. Bolling). The Chair is prepared to rule.

While the language in the bill is broad, suspending certain procedural requirements of law, the Chair, in the absence of specific knowledge as to all of the other environmental protection requirements that are involved in the language of the amendment, feels constrained to sustain the point of order.

The Chair believes he will sustain the point of order on the ground that this language is simply so broad as to suspend virtually every requirement of law, and the Chair out of caution sustains it for fear of further broadening a bill which is already very broad.

AMENDMENT OFFERED BY MR. JONES OF OKLAHOMA TO THE AMENDMENT
IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. JONES of Oklahoma. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Jones of Oklahoma to the amendment in the nature of a substitute offered by Mr. Staggers:

On page 9, after line 22, **section 104** is amended by inserting the following new subsection after subsection (c), and redesignating the subsequent subsections:

SEC. 2. Price Control and Shortages. The President and the Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of petroleum products, coal, natural gas, and petrochemical feedstocks, and of materials associated with the production of energy supplies, and equipment necessary to maintain and increase the exploration and production of coal, crude oil, natural gas, and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

Mr. HOSMER. Regular order, Mr. Chairman.

The CHAIRMAN. Regular order is ordered.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I regretfully make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DINGELL. Mr. Chairman, I would like to have given my good friend, the gentleman from Oklahoma, an opportunity to be heard.

Mr. Chairman, as the Chair will note, the amendment before us imposes the duty upon the President to perform a study related to the effectiveness and the effects of another statute, namely, the Economic Stabilization Act. As the Chair notes, the Economic Stabilization Act and studies under the Economic Stabilization Act lie in the jurisdiction of another committee, namely, the Committee on Banking and Currency.

I am sure the Chair is also aware that nowhere else in this statute appears the Economic Stabilization Act.

While I recognize the merits of the amendment offered by the gentleman from Oklahoma and salute him for an awareness of a problem of considerable importance, nevertheless the rules of this House do not permit this committee to amend the Economic Stabilization Act, referring to the Committee on Interstate and Foreign Commerce, and indeed the Economic Stabilization Act is not mentioned anywhere else in the bill.

Or course, it follows the committee of which we are now a part may not direct studies relating to the effect of that under the guise of amending the bill H.R. 11882, because it deals with different matters.

I make a point of order against the amendment on the grounds of germaneness.

The CHAIRMAN. The gentleman from Oklahoma will be heard on the point of order.

Mr. JONES of Oklahoma. I think the amendment is germane to this bill, because in the first place it does fit into the overall concept of the bill in trying to ease our energy problems and fits in with the title of the bill.

Second, it does not amend the Economic Stabilization Act in any way but merely calls for a study to give to this Congress information that will be necessary in case an amendment to that act is necessary in the future.

So I believe it is germane to this bill, because it does fit into the overall objective.

The CHAIRMAN (Mr. Bolling). The Chair is prepared to rule.

The amendment offered by the gentleman from Oklahoma (Mr. Jones) only provides for a study of certain effects of actions taken under the Economic Stabilization Act. The amendment in the nature of a substitute in its present form is replete with various studies.

Therefore the Chair overrules the point of order.

(By unanimous consent Mr. Jones of Oklahoma was allowed to proceed for 1 minute.)

Mr. JONES of Oklahoma. Very briefly, the purpose of this amendment is to direct the President and Administrator to conduct a study to discover if there is any relationship between the price control regulations and rulings and the present energy shortage, particularly as it affects new sources of energy and the equipment needed to produce those new sources of energy.

Known facts show that we have a decline in our domestic production and a shortage in equipment. Independent producers in my State are willing to go out and drill wells, but cannot get the equipment to do so. The reasons for this are that blame is laid on the price control rulings. Congress may be called on to rectify that, but we should not do it in a vacuum. We should have the studies conducted and the results back to us in 30 days so that we can take that action in a responsible manner.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. Jones) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 104.]**

AMENDMENT OFFERED BY MR. GILMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. GILMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Gilman to the amendment in the nature of a substitute offered by Mr. Staggers: On page 45, add a new section 125:

Sec. 125. DEVELOPMENT OF PROCESSES FOR THE CONVERSION OF COAL TO CRUDE OIL AND OTHER LIQUID AND GASEOUS HYDROCARBONS

The President shall prepare and submit to Congress not later than 90 days after the date of enactment of this Act a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(By unanimous consent Mr. Gilman was allowed to proceed for 1 minute and revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, my proposed amendment calls for the preparation and submission by the President to Congress within 90 days, a plan for developing a process for the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

Section 106 of this measure requires major fuel burning installations to convert to coal, in place of oil or natural gas, provided that these plants have the capability to do so and where the use of coal will have

the least adverse environmental impact. While this is a necessary step, with coal being our most abundant natural resource, we cannot ignore the environmental concerns.

Coal can be effectively and safely converted to environmentally sound methods of usage. Research on the governmental level and in private industry has made some real breakthroughs in the conversion process. But our research has been helter-skelter and we are not fully apprised of the present status of coal conversion efforts.

What we need is an extensive, comprehensive plan, stepping up our research on coal conversion so that we can safely avail ourselves of the 390 billion tons of known recoverable coal.

Upon receiving this report from the President, as proposed by my amendment, we would be able to then determine where and how we should proceed in further efforts for converting coal to a safer burning fuel.

Our purpose in considering this legislation today is two-fold. We are dealing with the immediate energy shortages and at the same time taking a longer range look at the road ahead, making certain that we do not find ourselves the victims of recurring energy crunches.

As we look to the future, we are hopeful that we will be able to tap some of the more exotic energy sources: solar energy, geothermal energy and hydroelectric power. But as a more immediate solution to our energy problems we should certainly look to our most available resource—coal—which comprises 88 percent of all our known recoverable fuel reserves.

Accordingly, I urge my colleagues to adopt this amendment so that we might make use of our abundant coal reserves, safely and without any environmental hazards.

Mr. Chairman, I wonder if the gentleman from New York (Mr. Gilman), would join in a unanimous consent request that his designation of the President would be changed to the Administrator, in order that it conform to the basic format of the substitute as it was reported and agreed upon in the Committee on Interstate and Foreign Commerce?

Mr. GILMAN. Mr. Chairman, I would have no objection to that.

Mr. MOSS. Mr. Chairman, I make that unanimous consent request to change the designation from the President to the Administrator.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Gilman), to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 125.]**

AMENDMENT OFFERED BY MS. HOLTZMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Ms. Holtzman to the amendment in the nature of a substitute offered by Mr. Staggers; Page 45, insert after line 9:

"Sec. 124. PROHIBITION OF PETROLEUM EXPORTS FOR MILITARY OPERATIONS IN INDOCHINA.

"In the exercise of his jurisdiction under the preceding section, and in order to conserve petroleum products for use in the United States, the Administrator shall prohibit the exportation of petroleum products for use, directly or indirectly, in military operations in South Vietnam, Cambodia or Laos."

Page 45, line 9A, strike out "SEC. 124" and insert in lieu thereof "SEC. 125."

POINT OF ORDER

Mr. BROYHILL of North Carolina. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BROYHILL of North Carolina. Mr. Chairman, I make the point of order that this amendment is not germane to the bill since it deals with a subject matter that is under the jurisdiction of other committees of the House of Representatives, the Committee on Armed Services and the Committee on Foreign Affairs, as an example.

The CHAIRMAN. Does the gentlewoman from New York desire to be heard on the point of order?

Ms. HOLTZMAN. Mr. Chairman, I do desire to be heard on the point of order.

Mr. Chairman, certainly the subject of petroleum products seems to be within the jurisdiction of this committee since we have been debating this matter for at least 3 days. So I would urge that that subject is germane, and that my amendment is germane to the bill.

The CHAIRMAN (Mr. Bolling). The Chair is prepared to rule.

The language of the amendment in the nature of a substitute which appears at the bottom of page 44 reads in part as follows:

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products. . . .

et cetera, et cetera.

The amendment offered by the gentlewomen from New York (Ms. Holtzman) is a further delineation of that type of authority. Therefore the Chair overrules the point of order made by the gentleman from North Carolina (Mr. Broyhill).

Ms. HOLTZMAN. Mr. Chairman, the purpose of this amendment is to deal with the problem that came to our attention in the last few days. We are apparently supplying about 23,590 barrels of oil per day to South Vietnam and Cambodia. In view of the extraordinary shortages here at home, it seems to be unnecessary to supply oil for military operations to Vietnam and Cambodia when we are taking it from the consumers and other users here at home.

I should also like to point out that South Vietnam and Cambodia may purchase oil from the Middle East, since they have not been boycotted by the Arabs, so that this amendment will not prevent their ability to obtain fuel from non-American sources.

I urge support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. Holtzman) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Ms. HOLTZMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 172, answered “present” 1, not voting 58, as follows:

[Roll No. 686]

AYES—201

Abzug	Donohue	Holifield
Adams	Drinan	Holtzman
Addabbo	Dulski	Horton
Alexander	du Pont	Howard
Anderson, Calif.	Eckhardt	Hungate
Anderson, Ill.	Edwards, Ala.	Hutchinson
Andrews, N.C.	Edwards, Calif.	Johnson, Colo.
Andrews, N. Dak.	Eilberg	Jones, N.C.
Annunzio	Esch	Jones, Tenn.
Aspin	Evans, Colo.	Jordan
Badillo	Evins, Tenn.	Karth
Barrett	Fascell	Kastenmeier
Bennett	Fish	Kazen
Bergland	Flynt	Koch
Bevill	Foley	Kyros
Biaggi	Ford, William D.	Landrum
Biester	Fountain	Leggett
Bingham	Fraser	Lehman
Blatnik	Frenzel	Litton
Boland	Froehlich	Long, La.
Brademas	Fulton	Lujan
Brasco	Fuqua	McCloskey
Broomfield	Gaydos	McCormack
Brown, Calif.	Gibbons	McDade
Brown, Mich.	Ginn	Madden
Broyhill, Va.	Gonzalez	Madigan
Burke, Fla.	Grasso	Matsunaga
Burke, Mass.	Gray	Mazzoli
Burlison, Mo.	Green, Pa.	Mezvinsky
Burton	Gross	Milford
Byron	Grover	Miller
Carney, Ohio	Gude	Minish
Carter	Gunter	Mink
Cohen	Guyer	Minshall, Ohio
Collins, Ill.	Haley	Mitchell, Md.
Conte	Hamilton	Moakley
Corman	Hanley	Moorhead, Pa.
Cotter	Hanna	Mosher
Coughlin	Hanrahan	Moss
Cronin	Hansen, Wash.	Murphy, Ill.
Culver	Harrington	Natcher
Daniels, Dominick V.	Hawkins	Nedzi
Danielson	Hechler, W. Va.	Nichols
de la Garza	Heckler, Mass.	Obey
Delaney	Heinz	O'Neill
Dellums	Helstoski	Owens
Denholm	Hicks	Parris

Patten
Pepper
Pickle
Pike
Podell
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.

Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shriver
Shuster
Smith, Iowa
Snyder
Stanton, James V.
Stark
Steelman

Stuckey
Studds
Symington
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
White
Whitten
Wolff
Wylie
Yates
Yatron
Young, Ga.

NOES—172

Abdnor
Archer
Arends
Armstrong
Ashbrook
Ashley
Bafalis
Baker
Bauman
Blackburn
Bray
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burleson, Tex.
Butler
Camp
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
Dellenback
Dennis

Derwinski
Devine
Dickinson
Downing
Duncan
Eshleman
Findley
Fisher
Flood
Flowers
Forsythe
Frelinghuysen
Frey
Gettys
Giaino
Gilman
Goldwater
Goodling
Hammerschmidt
Hansen, Idaho
Hastings
Henderson
Hillis
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Jarman
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Kemp
Ketchum
Kuykendall
Landgrebe
Latta
Lent
Long, Md.
Lott
McClory

McCollister
McEwen
McFall
McKay
McKinney
McSpadden
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Murphy, N.Y.
Myers
Nelsen
O'Brien
O'Hara
Passman
Perkins
Pettis
Peyser
Poage
Powell, Ohio
Preyer
Price, Tex.
Quie
Quillen
Rhodes
Roberts
Robinson, Va.
Rogers
Roussetot
Ruppe
Ruth

Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Steed
Steiger, Ariz.

Steiger, Wis.
Stephens
Stratton
Stubblefield
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Towell, Nev.
Treen
Ullman
Waggonner
Wampler
Whitehurst
Widnall

Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wydlar
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion

ANSWERED "PRESENT"—1

Beard

NOT VOTING—58

Bell
Boggs
Bolling
Bowen
Breaux
Burke, Calif.
Carey, N.Y.
Chisholm
Clark
Clawson, Del.
Clay
Conyers
Dent
Diggs
Dingell
Dorn
Erlenborn
Green, Oreg.
Griffiths
Gubser

Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Macdonald
Mailliard
Martin, N.C.
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Patman

Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Thornton
Veysey
Walsh
Ware
Whalen
Williams
Wright
Wyatt
Zwach

So the amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 124.]**

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GROSS TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. Gross. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Gross to the amendment in the nature of a substitute offered by Mr. Staggers: Page 45, insert after line 9:

SEC. 124. PROHIBITION OF PETROLEUM EXPORTS FOR MILITARY OPERATIONS IN
INDOCHINA

"In the exercise of his jurisdiction under the preceding section, and in order to conserve petroleum products for use in the United States, the Administrator

shall prohibit the exportation of petroleum products for use, directly or indirectly, in military operations in South Israel.

Page 45, line 9A, strike out "Sec. 124" and insert in lieu thereof "Sec. 125."

(By unanimous consent, Mr. Gross was allowed to proceed for 1 minute.)

Mr. GROSS. Mr. Chairman, there is no better time than 5 minutes after midnight, heralding this new day, to spread the good things of life as far around the world as it is possible to do so.

I ask for the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Gross) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Stagers).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LONG of Maryland. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 50, noes 320, answered "present" 1, no voting 61, as follows:

[Roll No. 687]

AYES—50

Bevill	Hicks	Nedzi
Brown, Mich.	Hungate	Nichols
Burlison, Mo.	Johnson, Colo.	Powell, Ohio
Byron	Johnson, Pa.	Railsback
du Pont	Kazen	Randall
Edwards, Ala.	Landgrebe	Rarick
Esch	Landrum	Regula
Flynt	Litton	Rose
Fuqua	McSpadden	Scherle
Ginn	Martin, Nebr.	Shuster
Goodling	Matsunaga	Snyder
Gross	Mazzoli	Stanton,
Guyer	Milford	J. William
Hanna	Miller	Steelman
Hanrahan	Mink	Stuckey
Hansen, Wash.	Minshall, Ohio	Vander Jagt
Hechler, W.Va.	Mosher	Wylie

NOES—320

Abdnor	Badillo	Breckinridge
Abzug	Bafalis	Brinkley
Adams	Baker	Brooks
Addabbo	Barrett	Broomfield
Alexander	Bauman	Brotzman
Anderson, Calif.	Bennett	Brown, Calif.
Anderson, Ill.	Bergland	Brown, Ohio
Andrews, N.C.	Biaggi	Broyhill, N.C.
Andrews, N. Dak.	Blester	Broyhill, Va.
Annunzio	Bingham	Buchanan
Archer	Blackburn	Burgener
Arends	Blatnik	Burke, Fla.
Armstrong	Boland	Burke, Mass.
Ashbrook	Brademas	Burleson, Tex.
Ashley	Brasco	Burton
Aspin	Bray	Butler

Camp	Frelinghuysen	McCormack
Carney, Ohio	Frenzel	McDade
Carter	Froehlich	McEwen
Casey, Tex.	Fulton	McFall
Cederberg	Gaydos	McKay
Chamberlain	Gettys	McKinney
Chappell	Glaimo	Madden
Clancy	Gibbons	Madigan
Clausen, Don H.	Gilman	Mahon
Cleveland	Goldwater	Mallary
Cochran	Gonzalez	Mann
Cohen	Grasso	Maraziti
Collier	Gray	Martin, N.C.
Collins, Ill.	Green, Oreg.	Mathias, Calif.
Collins, Tex.	Green, Pa.	Mathis, Ga.
Conable	Grover	Mezvinsky
Conlan	Gude	Michel
Conte	Gunter	Minish
Corman	Haley	Mitchell, Md.
Cotter	Hamilton	Mitchell, N.Y.
Coughlin	Hammerschmidt	Mizell
Crane	Hanley	Moakley
Cronin	Hansen, Idaho	Mollohan
Culver	Harrington	Montgomery
Daniel, Dan	Hawkins	Moorhead, Calif.
Daniel, Robert	Heckler, Mass.	Moss
W., Jr.	Heinz	Murphy, Ill.
Daniels, Dominick V.	Helstoski	Murphy, N.Y.
Danielson	Henderson	Myers
Davis, Ga.	Hillis	Natcher
Davis, S.C.	Hinshaw	Nelsen
Davis, Wis.	Hogan	Obey
de la Garza	Holifield	O'Brien
Delaney	Holt	O'Hara
Dellenback	Holtzman	O'Neill
Dellums	Horton	Owens
Denholm	Hosmer	Parris
Dennis	Howard	Passman
Derwinski	Huber	Patten
Devine	Hudnut	Pepper
Dickinson	Jarman	Perkins
Dingell	Jones, Ala.	Pettis
Donohue	Jones, N.C.	Peyser
Downing	Jones, Okla.	Pickle
Drinan	Jones, Tenn.	Pike
Dulski	Jordan	Poage
Duncan	Karth	Podell
Eckhardt	Kastenmeier	Preyer
Edwards, Calif.	Kemp	Price, Ill.
Eilberg	Ketchum	Price, Tex.
Eshleman	Koch	Pritchard
Evans, Colo.	Kuykendall	Quie
Evins, Tenn.	Kyros	Quillen
Fascell	Latta	Rangel
Findley	Leggett	Rees
Fish	Lehman	Reid
Fisher	Lent	Reuss
Flood	Long, La.	Rhodes
Flowers	Long, Md.	Rinaldo
Foley	Lott	Roberts
Ford, William D.	Lujan	Robinson, Va.
Forsythe	McClory	Robison, N.Y.
Fountain	McCluskey	Rodino
Fraser	McCollister	Roe

Rogers
 Roncalio, Wyo.
 Rooney, Pa.
 Rostenkowski
 Roush
 Rousselot
 Roy
 Roybal
 Ruppe
 Ruth
 Ryan
 St Germain
 Sarasin
 Sarbanes
 Satterfield
 Schneebeli
 Schroeder
 Sebelius
 Seiberling
 Shipley
 Shoup
 Shriver
 Sikes
 Sisk
 Skubitz
 Slack
 Smith, Iowa
 Smith, N.Y.

Spence
 Stagers
 Stark
 Steed
 Steiger, Ariz.
 Steiger, Wis.
 Stephens
 Stratton
 Stubblefield
 Studds
 Symington
 Symms
 Talcott
 Taylor, N.C.
 Teague, Calif.
 Teague, Tex.
 Thompson, N.J.
 Thomson, Wis.
 Thone
 Thornton
 Tiernan
 Towell, Nev.
 Treen
 Udall
 Ullman
 Van Deerlin
 Vanik
 Vigorito

Waggonner
 Waldie
 Wampler
 White
 Whitehurst
 Whitten
 Widnall
 Wiggins
 Wilson, Bob
 Wilson, Charles, H.,
 Calif.
 Wilson, Charles, Tex.
 Winn
 Wolff
 Wydler
 Wyman
 Yates
 Yatron
 Young, Alaska
 Young, Fla.
 Young, Ga.
 Young, Ill.
 Young, S.C.
 Young, Tex.
 Zablocki
 Zion

ANSWERED "PRESENT"—1

Beard

NOT VOTING—61

Bell
 Boggs
 Bolling
 Bowen
 Breaux
 Burke, Calif.
 Carey, N.Y.
 Chisholm
 Clark
 Clawson, Del.
 Clay
 Conyers
 Dent
 Diggs
 Dorn
 Erlenborn
 Frey
 Griffiths
 Gubser
 Harsha
 Harvey

Hastings
 Hays
 Hébert
 Hunt
 Hutchinson
 Ichord
 Johnson, Calif.
 Keating
 King
 Kluczynski
 Macdonald
 Mailliard
 Mayne
 Meeds
 Melcher
 Metcalfe
 Mills, Ark.
 Moorhead, Pa.
 Morgan
 Nix
 Patman

Riegle
 Roncallo, N.Y.
 Rooney, N.Y.
 Rosenthal
 Runnels
 Sandman
 Stanton, James V.
 Steele
 Stokes
 Sullivan
 Taylor, Mo.
 Veysey
 Walsh
 Ware
 Whalen
 Williams
 Wright
 Wyatt
 Zwach

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. VIGORITO TO THE AMENDMENT IN THE NATURE OF
A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. VIGORITO. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Vigorito to the amendment in the nature of a substitute offered by Mr. Staggers: At the end of the bill, add a new title as follows:

TITLE III—NONRETURNABLE BEVERAGE CONTAINER PROHIBITION ACT

Sec. 301. To reduce energy waste which is caused by the production of non-returnable containers used for the packaging of soft drinks caused by the production of nonreturnable containers used for the packaging of soft drinks and beer, and to assure energy conservation, so that the essential needs of the United States are met, by banning such containers when they are sold in interstate commerce on a no-deposit, no-return basis.

(a) The Congress finds that the utilization of returnable beverage containers would result in substantial energy savings.

(b) It is the purpose of this Act to assist in the solving of this energy situation by preventing the use and circulation of the offending types of nonreturnable containers by banning their shipment and sale in the interstate commerce.

Sec. 303. Definitions:

(1) Returnable beverage container means a beverage container which

(a) has a refund value

(b) is not a metal container with a detachable opening in the container

(2) "beverage" means any variety of liquid intended for human consumption

(3) "container" means a bottle, jar, can or carton of glass, plastic or metal or any combination thereof, for use in packaging a beverage.

Sec. 304. (a) No person shall manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce any non-returnable container with respect to which no refundable money deposit is required from the consumer.

(b) Whoever violates subsection (a) of this section shall be fined not more than \$1,000 or imprisoned for not more than six months or both.

(c) The President or Chairman of the Interstate Commerce Commission shall establish such regulations as are necessary for the purpose of this Act.

The CHAIRMAN. Will the gentleman from Pennsylvania advise the Chair if the amendment is printed in the Record.

Mr. VIGORITO. Yes, it is.

POINT OF ORDER

Mr. ROGERS. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROGERS. Mr. Chairman, I make the point of order that this amendment is not germane because obviously it creates a whole new title. It does not amend any existing section of the bill.

Second, it refers to nonreturnable beverage containers. This is not mentioned in the existing substitute.

Third, in effect it constitutes an amendment to the Solid Waste Disposal Act but with regulatory effect, affecting none of the operative provisions of the amendment and any reference to energy conservation; and, finally, the amendment regulates economic relationship between the purchaser and seller of consumer goods. This is not done anywhere in H.R. 11882, except maybe one could argue the windfall profits section might affect that, which this does not purport to amend.

For these reasons, Mr. Chairman, I am constrained to object and say it is not germane.

The CHAIRMAN. Does the gentleman from Pennsylvania desire to be heard on the point of order?

Mr. VIGORITO. Yes, Mr. Chairman. I think this is appropriate at this time because we are trying to save energy, and we definitely will save energy here, because we are using one-way containers, about 60 or 70 billion of them every year, and increasing at the rate of 70 billion every year. One returnable container can be used 20 times.

The CHAIRMAN. The gentleman from Pennsylvania will address himself to the point of order.

Mr. VIGORITO. Mr. Chairman, I leave it to the Chairman.

The CHAIRMAN. The Chair is prepared to rule.

For all the reasons outlined by the gentleman from Florida the amendment is clearly not germane to this bill and the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. FLYNT TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. FLYNT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 116] offered by Mr. Flynt to the amendment in the nature of a substitute offered by Mr. Staggers: Page 31, line 21, strike out the period and insert a semicolon and the following: "and, *provided further*, That the aggregate number of fuel inefficient passenger motor vehicles purchased by or for the legislative and judicial branches of the Federal Government and for all Departments in the executive branch may not exceed 30 per centum of the aggregate number of passenger motor vehicles purchased by each such branch in such year; and the aggregate number of fuel inefficient passenger motor vehicles purchased by each such branch in fiscal year 1976 may not exceed 10 per centum of the aggregate number of passenger motor vehicles by each such branch in each such year. For purposes of this subsection the term, fuel inefficient passenger motor vehicle for fiscal year 1975 means an automobile which does not achieve at least seventeen miles per gallon as certified by the Department of Transportation; for fiscal year 1976, and thereafter, the term fuel inefficient passenger motor vehicle means an automobile which does not achieve at least twenty miles per gallon, as certified by the Department of Transportation.

POINT OF ORDER

Mr. BROYHILL of North Carolina. Mr. Chairman, I make the point of order that this is an amendment or the language of an amendment which has already been considered, an amendment offered by the gentleman from California (Mr. Anderson).

The CHAIRMAN. Does the gentleman from Georgia desire to be heard?

Mr. FLYNT. Mr. Chairman, I am surprised that the gentleman from North Carolina would make a point of order against this amendment because this is the example setting section of the bill. We have asked everybody under creation to set an example by trying to conserve fuel and energy. This goes beyond the scope of the amendment offered by the gentleman from California. I have talked with the gentleman from California and I talked with him at the time he offered his

amendment and he said if he had thought about it he would have included this too.

The CHAIRMAN. The Chair is prepared to rule.

The amendment offered by the gentleman from Georgia does not amend the Anderson of California amendment. The Chair therefore overrules the point of order.

Mr. FLYNT. Mr. Chairman, actually in speaking in opposition to the point of order, which the Chairman in his wisdom saw fit to overrule, I think I made my point. I just want to read this section of this bill that I am seeking to amend. It says:

(g) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

Economy begins here and it should begin with us. I simply ask the Committee to try to conserve fuel by example as well as by precept.

This is the example selling section of the bill and I want to strengthen it.

This is a good amendment and by adopting it we can say that we want to conserve fuel as well as tell other people to conserve.

We cannot expect Mr. Average Citizen to save on gas and energy fuel unless we ourselves are willing to do the same thing.

I urge the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. Flynt) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. CONTE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. CONTE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment [Sec. 122] offered by Mr. Conte to the amendment in the nature of a substitute offered by Mr. Staggers: On page 44, immediately below line 21, insert the following:

(c) In order to assist the effective implementation of the purposes of this Act by the Federal Government in the area of Federal employment, the President, through such authority or authorities in the executive branch as he considers appropriate, shall prepare and submit to the Congress within ninety days after the date of enactment of this act a detailed and comprehensive plan for the establishment and institution, to the extent practicable, of a new basic administrative workweek of forty hours for Federal civilian employees in the executive branch generally, with the requirements that the hours of work in such workweek be performed within a period of not more than four of any seven consecutive days, that the workweek occur in the period of Monday through Friday where possible, and that the basic nonovertime workday not exceed ten hours. Such plan shall make such new basic administrative workweek effective not later than the close of the sixth calendar month beginning after the date of enactment of this Act and contain such exemptions as may be necessary in the interests of the national security, the public welfare generally, the preservation of law and order, and the effective and efficient conduct of Federal activities and duties. In addition, the President shall submit to the Congress along with such detailed and

comprehensive plan for a new basic administrative workweek such comprehensive draft or drafts of additional legislation as he considers necessary to fully implement such plan.

Mr. CONTE. Mr. Chairman, I ask unanimous consent to proceed for 1 minute to explain my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONTE. Mr. Chairman, I was pleased to learn the news that the President had declared December 24 and 31 holidays for Federal employees.

On this past November 26, I introduced House Resolution 716, urging the President to set aside these days for the purpose of saving energy and also to change the standard workweek for Federal employees to 4 days a week. This Monday through Thursday week would continue for as long as the President determined necessary. I also wrote to the President, prior to the filing of this measure, telling him of the necessity of conserving fuel supplies in every manner possible.

My amendment here today again calls for the establishment of this revised workweek.

It is not the intention of this action to overwork civil service employees. They would still work a total of 40 hours per week under this plan. This is an efficiency measure which would make better use of those 40 hours for all parties concerned and conserve energy as well. Overtime laws, presently in effect, would, of course, have to be changed to reflect the new status of the 4-day workweek in the scheme of governmental operations.

There exists at the present time an overriding need to conserve fuel supplies. The curtailment of energy supplies in the lighting, heating, and use of office machinery within the Federal buildings and offices would serve this end. The prompt action and example of the executive branch of our Government in implementing a 4-day workweek would bring about that curtailment.

By way of illustration, let me point out that Federal offices use about 891 trillion Btu's of energy each year. Under this proposal, one-half million barrels of fuel could be saved for each day that Federal offices were closed. This would amount to enough energy to heat 10,000 homes for the entire winter. This measure, then, can be predicted to be an effective means of easing our energy problems.

Transportation costs to the Federal employees would be reduced as much as 20 percent a week under this plan, and a significant reduction in pollution and commuter traffic would be a fringe benefit.

With fewer startups, coffee breaks, and lunch hours, the Federal Government would be the beneficiary of increased efficiency. We can expect a lower turnover in absenteeism. The increased leisure time of the long weekend would give a competitive advantage to the Government in recruiting skilled personnel and improved employee morale would be likely to spread.

The Federal Government must set the example. There is a total Federal work force of about 2.3 million, the greatest concentration of whom are settled in the Washington metropolitan area. Fully two-

thirds of these people could be included under this proposals. It would be hoped that we could take the lead in proving the worth of the 4-day week so that State, city, and municipal governments would fall in line. What we need, in other words, is a domino effect which would stretch into the business community as the country as a whole mobilizes for the crunch that is already upon us.

I urge your support for this measure.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DINGELL. Mr. Chairman, I make a point of order that the amendment offered by my good friend from Massachusetts is not germane. The reasons, I think, are apparent to the Chair.

The amendment offered by my good friend would set up a 4-day workweek. I would be, I think, as surprised as the Chair if he were to find elsewhere in the bill and, indeed, on the basis referred to any reference to a 4-day, 40-hour workweek.

Obviously this matter is not within the jurisdiction of the Committee on Interstate and Foreign Commerce, but rather in the rules of Congress under the hands of the Committee on Post Office and Civil Service, if that committee has not voted away that power. I am not sure they did that some time back.

In any event, the amendment seeks to go far beyond the purpose and scope of the bill and deals with a whole new question, the workweek of Federal employees lying within the jurisdiction of a totally different committee.

For that reason, Mr. Chairman, I insist on the point of order as not being germane.

The CHAIRMAN. Does the gentleman from Massachusetts desire to be heard on the point of order?

Mr. CONTE. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts is recognized.

Mr. CONTE. Mr. Chairman, before I proceed, it would be appropriate to announce to the House that we had 16 rollcalls for yeas and nays as a record in the House, and we have broken that record tonight with 21 so far.

Mr. Chairman, I think that the amendment is germane. If we look at section 122, which is the Employment Impact and Worker Assistance section, the first point of that section, (a) says that carrying out his responsibilities under this act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this act upon employment.

I certainly feel this is germane. It takes that into consideration. It provides for a 40-hour workweek, 10 hours a day, keeping in mind the civil service laws and the overtime laws. If it does not go into effect and there is a shortage of energy, it is very, very possible, that a lot of Federal employees will be out of work must less than 40 hours a week.

Therefore, I hope the Chair will rule in my favor.

The CHAIRMAN. The Chair is prepared to rule. Despite the eloquent argument of the gentleman from Massachusetts, the fact of the matter is that the amendment goes well beyond the purposes of the section of the bill and the bill itself and the matter contained in the amendment surely comes within the jurisdiction of the Committee on Post Office and Civil Service.

Therefore, the point of order of the gentleman from Michigan is sustained.

AMENDMENT OFFERED BY MR. CARNEY OF OHIO TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. CARNEY of Ohio. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Carney of Ohio to the amendment in the nature of a substitute offered by Mr. Staggers: Page 32, strike out line 9, and insert in lieu thereof the following:

Sec. 117. PROHIBITION ON PRICE GOUGING

Page 32, line 12, insert "to prevent price gouging with respect to sales of crude oil, residual fuel oil, refined petroleum products, and coal, including sales of diesel fuel to motor common carriers" immediately after "amended".

Mr. CARNEY of Ohio. Mr. Chairman, I ask unanimous consent to proceed for 1 minute in order to explain my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CARNEY of Ohio. Mr. Chairman, we have seen and read a lot, although we have not had much time this week, but when we do get time to see the newspaper, we see that there is much distress among all truckdrivers in the country basically on two things: First, they cannot get sufficient gasoline, only 15 gallons in places which can carry them only about 70 miles; second, they are being charged too much for fuel in some cases.

The committee, in its wisdom, has language in the bill which it adopted in the committee to take care of the first item. This amendment is an attempt to give some relief to truckdrivers who are being gouged. Although we cannot condone every action they have taken, this amendment would show that we do recognize that there is a problem of price gouging and that Congress intends to give them some relief.

Mr. Chairman, I would urge the members in their superior wisdom to adopt this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Carney), to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. [Sec. 117.]

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MATSUNAGA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Matsunaga to the amendment in the nature of a substitute offered by Mr. Staggers: On page 4, line 13, after "safety," insert "employment"

Mr. MATSUNAGA. Mr. Chairman, I ask unanimous consent that I may proceed for 1 minute in explanation of my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. MATSUNAGA. Mr. Chairman, the amendment which I offer is a simple clarifying amendment. It merely inserts one word in **section 103** of the bill, H.R. 11881, which is being considered as an amendment in the nature of a substitute. The word is "employment," and it is proposed that it be added to line 13 of page 4 after the word "safety," so that line 13 would then read "health, safety, employment and the public welfare."

The amendment is fully in keeping with the purpose of the bill as laid out in **section 101**, calling for such actions as will meet the essential fuel needs of our Nation in such manner as will "minimize any adverse impact on employment."

My amendment is necessary because some doubt has been entertained as to whether or not the generic term "public welfare" as used in **section 3** includes employment. Legal experts disagree on this point. Some say it does; others say it does not. My amendment would make it crystal clear, that in the ordering of priorities the impact on employment in vital services must be considered as a factor.

Certainly, Mr. Chairman, no reasonable man is going to oppose this amendment, and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Hawaii (Mr. Matsunaga) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and on a division (demanded by Mr. Matsunaga) there were—ayes 112; noes 22.

So the amendment to the amendment in the nature of a substitute was agreed to. [**Sec. 103.**]

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Hechler of West Virginia to the amendment in the nature of a substitute offered by Mr. Staggers: On Page 31, Line 14, Strike out "\$25,000,000" and insert "\$1,000,000".

Mr. HECHLER of West Virginia. Mr. Chairman, I ask unanimous consent to address the House for 1 minute in order to explain my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. DU PONT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HECHLER of West Virginia. Mr. Chairman, I ask unanimous consent to address the House for 30 seconds in order to explain my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. DU PONT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HECHLER of West Virginia. Mr. Chairman, I ask unanimous consent to address the House for 15 seconds in order to explain my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. DU PONT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HECHLER of West Virginia. Mr. Chairman, under our liberal rules which allow Members to revise and extend their remarks, I feel I owe the committee and the House an explanation of this amendment even though I am not actually speaking these words on the floor. My good friend and colleague from Delaware (Mr. du Pont), for whom I have great affection and regard, was fully within his rights in objecting to my request for time to explain my amendment. He was courteous and good humored in informing me in advance that he would object, because I have objected to the consideration of resolutions like National High Blood Pressure Week, and National Check Your Vehicle Emissions Month which I personally feel should not be dignified as part of the legislative process. I respect my friend from Delaware for his position, and trust that he may reciprocally appreciate that my objections are not frivolous but are a sincere expression that the House of Representatives must devote its energies to more important problems facing the Nation.

With respect to my amendment, which reduces from \$25 million to \$1 million the authorization for the Office of Carpool Promotion in the Department of Transportation, I would like to observe that one of the prime ways to save gasoline is through carpooling, which I heartily endorse. However, I feel that the formation of carpools must be done at the grassroots, and not through the dictation of a new Federal bureaucracy freshly established. Nor is it necessary to dispense \$25 million of Federal largesse for this purpose. The use of the express bus lanes of Shirley Highway by carpools containing at least four passengers in each car has been working very well, thank you, without any Federal handout. The carpools established during gas shortages in World War II were organized without Federal subsidies. It seems to me that action by every local community, civic group, and family will better be inspired and stimulated at the local level rather than calling the shots from Washington.

Finally, a clue to the nature of this new office is in its title and the language of the bill itself. This is an "Office of Carpool Promotion." It will be noted that on page 30, **subsections (2), (3), (4), and (5)** commence with the words "promoting, encouraging and promoting," "promoting," and "promoting." I believe one of the evils of this administration has been that it is so filled with promoters that they tend to lose sight of substance and truth in their excessive zeal to "promote" everything under the sun. I would rather trust the local initiatives at the local level than all this high-powered promotion dictated from Washington. The people of this Nation are bombarded day and night already with the fast-gushing propaganda of full-page ads, radio and television commercials, billboards, and other "mass media" efforts by the oil corporations; let us not spend any more taxpayers' money on what we ought to be doing better ourselves without all this "hifalutin" promotion.

This is why I feel that a \$1 million ceiling is better than \$25 million, and I hope they do not even have to spend that much.

The question is on the amendment offered by the gentleman from West Virginia (Mr. Hechler) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. **[Sec. 116(f).]**

AMENDMENT OFFERED BY MR. RANDALL TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. RANDALL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Randall to the amendment in the nature of a substitute offered by Mr. Staggers: Page 7, line 17, after the word "for" the following: "Production, harvesting and transporting farm products and"

Mr. RANDALL. Mr. Chairman, it has been suggested by the minority and certain members of the staff of the majority that this subject may be covered at page 4. However, the listing of priorities is given there, and agriculture is listed as No. 7.

When we get over to the other listing, agriculture is omitted altogether and we talk about such things as displacement of persons due to unemployment, we talk about travel for educational opportunities and for other good and sufficient reasons, and there is nothing mentioned concerning agriculture, production, harvesting, and transportation of farm products.

Mr. Moss. Mr. Chairman, the matter is covered, and it is covered in the earlier amendments to the Emergency Petroleum Allocation Act of 1973, and it is incorporated by a reference, which, under **section 4(c)**, says, "Maintenance or agricultural relations."

Mr. RANDALL. Mr. Chairman, I only have a minute. I will not yield further.

Mr. Moss. Well, Mr. Chairman, I am telling the gentleman what is covered.

Mr. RANDALL. Mr. Chairman, may I proceed?

The CHAIRMAN. The time of the gentleman from Missouri (Mr. Randall) has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I ask unanimous consent to proceed for 1 minute in opposition to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. RANDALL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MOSS. Mr. Chairman, I ask unanimous consent to proceed for 15 seconds for the purpose of clarification.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. RANDALL. Mr. Chairman, reserving the right to object, may I be granted the time?

Mr. HOSMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The question is on the amendment offered by the gentleman from Missouri (Mr. Randall) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was rejected.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of two amendments offered by my distinguished colleague from New Hampshire, Louis Wyman. They would reduce the ultimate required automobile emissions control levels from the 96 percent mandated under the Clean Air Act of 1970 to a ceiling of 90 percent and suspend for the duration of the energy crisis, the automobile emissions requirements of the Clean Air Act of 1970 for those parts of the Nation determined by EPA to lack a significant air pollution level.

In my judgment, these amendments offer great potential relief from the pressures on our domestic gasoline supplies. Especially in light of the current circumstances, Congress now should approach our clean air problem with temperance and a good measure of commonsense. It would otherwise, I fear, result in great economic harm to our Nation and physical suffering of many innocent people.

I understand that a reduction to 90 percent of the automobile emissions controls level would result in a national fuel savings of at least 15 percent. It would also eliminate the need for costly and controversial catalytic converters on 1975 and 1976 model cars. These converters would add about \$150 per car, a factor which would contribute to inflation.

The converter requires unleaded gasoline, for which 4 to 5 percent more crude oil is required to refine than leaded gasoline. As a result of efforts to curb exhaust emissions already, fuel mileage has slowly declined 7 to 10 percent since 1967.

The demand for gasoline in the first quarter of 1973 was 5.5 percent higher than during the same period only 1 year ago. According to a study prepared by the Congressional Research Service at the request of the Interior and Insular Affairs Committee, the single most important factor contributing to this increase appears to be the gasoline penalty imposed by present antipollution devices. It has been esti-

mated that new emissions control devices have increased annual consumption by more than 300,000 barrels a day. This is about all we can be expected to save by reducing our speeds, carpooling to work, and reducing our pleasure driving.

A recent report printed in the April 1973 issue of the *Oil and Gas Journal* cited the following results of a study:

One private set of fleet tests indicated the mileage loss of 1971 models over 1970 at 7%, 1972, at 6%, and the 1973 over 1972 at 8%. This represented a cumulated mileage loss of 19%; but two direct comparative tests of 1973 models against 1970 models showed a loss ranging from 11% to 17% depending on the number of miles the 1970 models had been driven prior to testing.

These data showed much greater mileage declines than governmental tests made for the Environmental Protection Agency which reported losses of only about 7 percent.

The amendment to suspend automobile emissions requirements for those parts of the Nation determined by the EPA to lack a significant air pollution level and providing that vehicles lacking emission controls may not be operated other than in such areas represents a responsible reaction to the energy crisis. Many parts of our country do not have a demonstrated air pollution problem and I would not see the justification in requiring people who live in such areas to waste barrels and barrels of precious fuel. My constituents in northwest Arkansas should not be required, especially in the face of rationing or a surtax, to operate an automobile equipped to combat air pollution in Los Angeles. If we run out of fuel in Arkansas, people will lose their jobs and air quality standards goals will start to be a high-flown theory that fails to put the interest of the people first.

According to the 1970 census, 72.7 percent of the population lives in areas where there are less than 100,000 people and 55.2 percent live in communities of less than 25,000. In Arkansas, discounting urban fringe communities, 50 percent of the population lives in a rural area with a population under 2,500, with 38.5 percent residing in communities of less than 1,000. I have over half a million constituents and they do not want to be required to drive automobiles designed to cope with Gary, Ind., conditions.

While I do not want to overreact to the energy situation, the outlook for the immediate future appears grim. We have made many commendable gains in our goals to protect the environment. However, our current fuel status warrants relief from generalized air standards which penalize many wide-open sections of the country where there is not an air problem. We must remember that nature itself is capable of accommodating a certain amount of air impurities, and in those places where nature is overburdened, it is possible to control operation of vehicles which are not properly equipped.

I strongly urge the support of my colleagues for the two Wyman amendments.

MR. BAUMAN. Mr. Chairman, no one can deny that the Nation is confronted with an energy crisis of unprecedented proportions. It is only natural that the Congress should look for a way of minimizing or solving the problem, and thus, we have had before us for 3 days something entitled the "Energy Emergency Act." This bill, as we all know, has been hastily drafted, amended and reamended countless times and rushed to the floor even before printed copies were available.

After 3 days of an orgy of amendments literally no one knows what is in this bill, but it does not take long at all to discover that it represents a formula for economic disaster.

This bill is, above all, the first step toward a fuel rationing plan. While it contains other provisions, many of which would plant the seeds of destruction of our petroleum sources, it is the rationing mandate which remains the key provision. This is not obvious, of course. Actually, rationing is not mentioned directly anywhere in the bill. Now, we have discovered a new euphemism for rationing, "end-use allocation." But a stinkweed by any other name still smells the same.

And while this bill appears on the surface to allow the President a variety of options in dealing with the energy shortage, it makes inevitable only one; rationing. Nearly every other course of action, except for those specifically required in this bill, such as oil-to-coal conversion or suspension of air quality regulations, would have to be approved by Congress before taking effect. Approval of such proposals by this body could take weeks or months, leaving the President only one effective option; rationing.

This, of course, is by design, not by accident. Proponents of rationing want to make sure that it does become a reality, and this bill is the ideal vehicle.

But in this headlong plunge toward rationing, let us keep several things in mind. First, our experience so far with fuel allocation has been less than reassuring. The mandatory allocation program which the Congress approved several months ago specified that agriculture, including fishing, would be one of the high-priority areas receiving fuel allocations. In practice, this has meant untold amounts of redtape and resultant delays. Farmers, fishermen, and citizens in general in my district have had numerous delays without any word from the allocation bureaucracy concerning their requests for fuel. Delays of this sort can have disastrous results in terms of total food production and work real hardship on the farmer, the waterman, and all citizens.

If inefficiency of this sort is the hallmark of the existing Federal fuel allocation program, young as it is, what can we expect of a system of nationwide rationing? Besides being an administrative nightmare, it will inevitably mean delays, additional shortages, and real hardship for many.

I represent a district which is largely rural, as a great many of us do. Countless citizens must travel long distances to reach their jobs in such areas, oftentimes adding up to 60 or 70 miles of travel each day. How are they expected to reach their jobs if they are held, say, to 10 or 15 gallons of gas a week? Persons living in urban areas may have access to mass transit facilities, and might just pull through on 10 gallons. But in my district there are a great many people who commute many miles to Baltimore, Wilmington, or Washington where little or no suburban mass transit is available. In rural areas, of course, mass transit is nonexistent. A system of fuel rationing will undoubtedly deprive people there of their jobs. I know that no one wants higher prices for gasoline. But I also know that if there is a choice between paying more for gas and keeping a job, or paying less for gas but losing a job, the choice is obvious.

Other flaws in this bill abound. The section prohibiting windfall profits is another collection of verbage designed to present a political

appeal, but it can only spell disaster for consumers depending on the petroleum industry. To begin with, windfall profit is never defined in this bill. It will mean whatever some bureaucrat at the renegotiation board wants it to mean. Second, the standard against which oil industry profits are to be judged is the worst 5-year period for profits in the history of the U.S. petroleum industry. At a time when the only long-range solution to the fuel shortage is greatly increased exploration and development including removal of price controls, this bill would deprive the industry of the necessary additional capital for reinvestment in exploring and developing new fields.

Mr. Chairman, the American people have been asked to endure many sufferings in the name of solving various crises which have faced this Nation. Often the solution has compounded the problem and the bill before us is certainly of that type. Americans have suffered big taxes to the point that they now work nearly a quarter of each year to pay for local, State, and Federal Government. They are burdened with all sorts of governmental regulations and the insolence of bureaucrats who ignore the fact that they are public servants—servants of the people.

And today we are being asked by the proponents of this bill to subject our people to the possibility of not only fuel and gasoline shortages, but the vast and oppressive weights of a massive Federal bureaucracy which inevitably will bungle the job and compound the problem.

There is barely an ounce of economic good sense contained in the pages of this bill. After the parliamentary nightmare we have endured here, few here today understand its provisions and even fewer are able to explain the ramifications it will have on our national economy and the millions of souls who must suffer if we make the mistake of enacting this legislation. As a responsible representative of my people, I must vote against this legislative monstrosity.

Mr. HOGAN. Mr. Chairman, it was my original intent to offer an amendment to H.R. 11450, the National Emergency Energy Act, prohibiting discriminatory limitations upon individuals who observe in the exercise of their religion, a Sabbath day other than Sunday. However, due to the ruling by the Rules Committee, I am unable to present a nongermane amendment to this bill.

In spite of the ruling, I feel my colleagues should be aware of the effects this legislation will have on certain religious organizations.

It is important to note under section 105, subsection (a), dealing with the energy conservation plans, the bill provides that the President shall have the power to restrict the energy consumption of businesses. If I understand this wording in the right context, it could mean the President will have the power to restrict the working hours of a business, which could include a complete shutdown of all businesses on Sundays.

I am informed that 25 percent of our fuel allocation is consumed on weekends, and the President has asked that all gas stations close down on Sundays to help alleviate the overflow of weekend traveling which is one of the main factors in fuel consumption.

When the President requested this ban on Sunday gasoline sales, I became very concerned over the possibility of discrimination against those who worship God on a day other than Sunday.

I am particularly concerned for the Seventh-day Adventists, whose world headquarters, located in Takoma Park, Md., I have the honor to represent. The SDA church has designated Saturday as its day of worship and according to deep religious convictions, the members of this church engage in personal business on Sunday and worship in their respective churches throughout the country on the seventh day of the week, Saturday. They feel as I do that every individual has the right to worship God according to his or her personal convictions.

Due to the enactment and enforcement of Sunday blue laws, Seventh-day Adventists have been forced by Government order to curtail public business activities, and they believe that every citizen of this land should be free to carry out his business activities and his religious activities according to the dictates of his conscience as regards religious matters.

Now that our Nation is faced with an energy crisis, Seventh-day Adventists believe that every effort should be made to cooperate with the Government in the conservation and allocation of energy supplies. It is noted that a proposed plan will call for the closing of gasoline stations from 9 o'clock Saturday evening to 12 o'clock Sunday night. I feel it would be unfortunate that Seventh-day Adventist service station operators will be deprived of 2 days of business because of their religious convictions; that is, they will be closed as usual on Saturday, due to their religious convictions, and if the Federal law makes it absolutely mandatory for them to be closed also on Sunday, it will mean a hardship to them in their business because of their religion.

I am confident that the Adventist communities and Adventist businessmen, especially in the gas station business, will try in every way to cooperate even though this may mean a certain hardship to them. They do not feel that religious discrimination is being intended through regulations of the energy crisis, and they do appreciate every effort of the Government to respect religious convictions.

There has been talk of the revival of the blue laws which are religious laws giving religious significance to Sunday and the mandatory closing of business establishments on this day. When it comes to this issue, Seventh-day Adventists feel that their voice in opposition should be heard. They feel, and the church feels, that people should be allowed to worship on any day they wish to worship, but that there should be no Government encouragement or legislation which would make it seem to be Government supported for people to attend worship on Sunday and to refrain from buying gas, or other commodities, on this day because of it being a religious holiday. Seventh-day Adventists do not in any way want to interfere with those who worship God on Sunday. However, they would like to have the Government also grant them the right to worship God on Saturday in harmony with what they believe is the commandment of God, to work 6 days and rest on the seventh.

When the Senator from Washington (Mr. Jackson) stated that perhaps the Sunday blue laws might have to be revived and reestablished to make it mandatory for people to refrain from business activities, the Seventh-day Adventists felt that there was justified reason for concern.

Mr. Chairman, our colleagues should be aware, that under **section 105, subsection (c)** of the bill before us provides that—

Proposed restrictions on the use of energy shall be designed to be carried out in such a manner so as to be fair and to create a reasonable distribution of the burden of such restrictions on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof.

I cannot help but feel, because of this section, in relation to subsection (a) and its provisions to give the President the power to close down businesses on Sundays, that special provisions should be made to prohibit any limitations on the operation of businesses open on Sunday, if they have been previously closed on Saturday due to religious convictions.

Mr. Chairman, I strongly urge my colleagues to take this provision under serious consideration. Since the ruling by the Rules Committee prevents me from introducing an amendment to make this provision, I hope efforts will be made in the next Congress to uphold the religious liberties of the first amendment by prohibiting any legislation which might discriminate or force undue hardships upon those who worship on a day other than Sunday.

Mr. KYROS. Mr. Chairman, I would like to take this opportunity to call attention to **section 206**, energy conservation study in H.R. 11882. Recently I have come across some significant data which clearly confirms the wisdom of this section. In particular, under subsection (3), I believe that retreading is a good example of industrial recycling and resource recovery in order to reduce energy demand. It is my understanding that the retreading industry could increase its production capacity by some 25 million passenger retread units in a period of 15 to 18 months. This would result in increased employment opportunities for some 22,000 more employees and a potential savings of crude oil from the use of retreads rather than new tires of 125 million gallons per week. If the industry could convert, for example, 1 million new truck tires to retread truck tires, an additional 21 million gallons of crude oil could be saved per year. In addition, if 60 percent of the spare tires available for 1974 cars were retreads, an additional saving of 24,300,000 gallons of crude oil could be secured. Thus, retreading offers a potential saving of 170 million gallons of crude oil, and this is a reasonable estimate; retreading offers an employment opportunity of some 22,000 people at the local level. This further offers an opportunity of utilizing some millions more old tires in a recycling process which, of course, is another major benefit. I would hope that the energy conservation study include retreaded tires. This is certainly an area which offers substantial crude oil savings as well as potential job opportunities and reduced expenditures for the consumer.

Mr. McDADE. Mr. Chairman, the legislation before us attempting to alleviate the current energy crisis is among the most complicated and difficult matters we have ever faced. We have given the administration the authority to deal equitably and swiftly with the crisis and we have provided the mechanism for congressional scrutiny of their decisions as well.

Because there are significant changes in both House and Senate versions of the bill, the conferees will have an important task ahead. Of particular concern to me was the action of the Senate for including language in S. 2589, the Senate version of the bill providing a 25-percent reduction in the fuel allocation to tourist industry described as "a nonessential use." The House bill recognizes that these industries in many areas of the Nation provide the base of the local economy. In Pennsylvania, tourism is the second largest industry. The House version of the bill wisely recognizes that access to available fuel supplies should be made to all commercial industries assuring that there will be no discrimination against any segment of the economy. I urge the House conferees to stand firm on including **section 115** in the final version of the bill.

Mr. Chairman, the circumstances which have led Congress to alter its agenda and devote the past several weeks to a crash program to meet our energy needs are a sad commentary on our present energy dilemma. Our response to the energy situation for the past several years has been no response—to pretend it did not exist. Each time a warning was sounded it was ignored. For a number of years the Appropriations Committee has called for a national energy and coal policy without success. The Select Committee on Small Business has repeatedly warned of the harmful effects of failing to conserve our Nation's resources to no avail.

Because these early warnings were not heeded, we are today working frantically to produce an energy bill.

What is our energy policy? That is the heart of the present dilemma. Yet the legislation being debated in the Congress this week is occurring precisely because there is no answer to that question.

For how many years, how many decades have we wasted our energy? America is currently using 55 percent of the entire world's resources, although it has only 6 percent of its people. In the 7 years from 1960-67, the world consumed as much petroleum as it had in the previous 70 years. During the next 3 years we consumed that much again. Soon that consumption demand will be on an annual basis. In this doubtful economic climate, we are anticipating doubling our number of passenger cars by 1985. The growth has continued unabated even when we know fossil fuels like oil took millions of years to form, and once gone, are irreplaceable.

What is our policy? This administration has had no policy; nor has any previous administration.

Frankly, it is disquieting to see the "energy czars" come and go; to hear fumbling and contradictory answers to my question at a congressional hearing; and to know that we must "break the budget" because we have never been requested to appropriate the money to supply the minimum number of personnel required to establish an Energy Office. Perhaps most frightening is the realization that our legion of "experts" were isolated and failed to recognize the complexity of the web of economic survival and the interrelationship of energy problems.

In the long run, we must look at our potential resources—and make them our usable reserves. It is estimated that our country may have coal resources to last us 300 years, and existing oil and oil shale resources to last us 500 years.

But potential resources are transformed into reserves, not by moving rock, but by expanding the artificial boundaries of geological knowledge and economic availability that separates the two. The potential of our resources can only be realized as a result of applied research. Major development of new technologies will be the key to this.

The energy crisis of today is not an unmitigated tragedy. We have been thrown back, largely, upon our own resources, and we have found these resources wanting. But in discovering this, we have also begun to discover the action, the lack of action, and the lack of planning of the past which have led us into an uncomfortable present. We have before us today, therefore, the clear responsibility of living the future with greater wisdom.

We must develop a new ethic in America that faces the fact that our resources are finite. We have little choice but to set out with new sensitivity on a program of restrained use of our nonrenewable resources. We have treated petroleum in the past with almost the same lack of restraint with which we treated water. We have about the same quantity of water on earth today which was present when the pyramids were built; but we have drastically reduced the quantity of petroleum on earth in just the 20th century, knowing as we did so that it took millions of millions of years for nature to produce that petroleum.

We are facing today the same challenge in the matter of countless other products of nature, principally our minerals, which we have taken from the earth as though we were plunderers, not as though we were the transient passengers on this space ship Earth with a responsibility to give that ship to our children as spaceworthy as she was when we came aboard.

We have lacked a policy in petroleum. Now we must create that policy overnight. We have lacked a policy in the whole energy field. Now we must create that whole energy policy overnight.

We have time today to set our policies in order in our other non-renewable resources. We have the most comprehensive survey of those minerals, their use, their quantity, their location, prepared by the Office of Geological Survey in this year 1973. We have a very simple choice. We can take that book today and begin the planning that will husband those resources intelligently as we move through the future years with all the new resources which we will need and will discover to replace them, and if we do so, the future will bless us. Or we can blindly plunder the earth of her riches, and some day in the future, and in the not-too-distant future, the Congress will sit here in this same chamber again debating an emergency mineral resources bill; and if we walk this second path, the men who debate that bill then will wonder at the lack of wisdom of the men who sit in this House and in this administration today.

I hope, and I trust, and I expect, that an immediate and vigorous program will be instituted to set a wise and clear policy for the use of our resources, all of our resources, in the future. Certainly, this is the least lesson we can learn today.

Mr. SPENCE. Mr. Chairman, the bill before us today is a bitter pill. For many of us, this legislation represents another intrusion into the free market system which has made ours a trillion dollar economy.

Others point out that the executive branch is being granted too much power.

Unfortunately, in the course of these last three days, we have taken a bill which had already been variously described as "tangled and confusing," "ill-conceived," and an "accounting and legal nightmare," and made it even worse by trying to rewrite it on the floor. We have created a bill the size of a book, and I would venture to say that no more than a handful of us really know what the final version is.

Perhaps at this point a brief summary of what we face would be in order. The total projected petroleum demand for the winter season was 18 million barrels per day. It now appears that we may miss that mark by as much as 20 percent. This includes two very vital areas: Fuel oil—shortage of 700,000 barrels per day—and gasoline—over 1 million barrels per day short. These shortages cannot be blamed entirely on the Arab oil embargo, though of course, this has not helped a bit. Rather, we are experiencing the effects of a combination of factors which could have produced no other result.

For example, a few years ago, there was every reason to expect that an additional 3 to 4 million barrels of oil would be available from Alaska, and off-shore areas including the Santa Barbara channel. As we all know, a myriad of legal and environmental problems have stymied the development of these sources.

It appears that the political, economical and environmental angles to the energy crisis will insure at least periodic shortages for a number of years, so it is clear that immediate conservation measures have to be taken.

Several of the President's proposals in response, along with the approximate savings in barrels per day are as follows: National 50 mph speed limit—225,000; various public and private conservation measures, including reducing home thermostats to 65 degrees in winter—900,000 total; year-round daylight savings time—30,000; requiring existing electric utilities to switch to coal—400,000; reduce airline flights by 10 percent—170,000; and, increased production on certain oil fields—100,000.

Mr. Chairman, everyone has his own theory about how we arrived at this point. Some blame the present administration, though this crisis has been developing through many administrations, and the record is replete with instances of warnings by this President coupled with positive suggestions. Just as often, the oil industry is blamed. It is said that either they should have known how bad things would be at this point, or that they actually engaged in a giant conspiracy to bring it about. Many unforeseen events have entered the picture and have made their contribution to the situation as we find it today. Who could have predicted, for example, that 10 billion gallons of oil would still be under the ground in Alaska, with the pipeline not even begun by 1973?

We, as individual Americans, must share the blame—with only 6 percent of the world's population, we burn one-third of the world's energy. Our consumption of energy has been steadily increasing at a pace faster than production.

The point is, Mr. Chairman, there is no one factor that can be blamed for our current problems; and, at the same time, none of the groups I

have mentioned can totally escape blame. There is plenty for them, and for others, to go around. In any event, it serves no useful purpose at this point to dwell on assessing blame—we must now pull together to bring ourselves out of this crisis. The American people have shown that they will cooperate in such efforts when they feel that they are being treated fairly, and when everyone is asked to share equally in the burdens of sacrifice.

The problem now has been compounded since this body, after having loaded down this bill with many amendments and with anywhere from 60 to 75 amendments still pending, has voted to shut off all debate and vote on the remaining amendments without the opportunity for debate. This matter is too important to this Nation, and our people, to be handled in this manner. I am prepared to remain here all night long if necessary to consider what is the best way to solve the overall problem confronting us.

This bill should be recommitted to the committee, or voted down, so that it can be considered in a sober manner by that body and reported back to us in a form which can be understood by the overall membership of this body. We need legislation to deal with the energy crisis in the best possible way. We do not need to complicate the problem, or even contribute to it, by hasty and ill-considered legislation.

If this bill is passed today, however, we must remain vigilant in the aftermath. We must keep a close watch on the rules and regulations which are promulgated under the authority of this bill, and insure that no segment of our economy is either favored or asked to bear a disproportionate share of the load.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of the bill and recognize that it is an honest effort to deal with the energy needs of this country.

The problem is clear: The country is faced with crippling shortages and the consumer will, as usual, have to bear the burden of the shortages and pay ever-increasing higher prices in the process. Hopefully, this bill will lessen that burden, keep the prices down to some reasonable level, and assure that vital energy needs are met, and it is in this hope that I support the bill.

This bill, unfortunately, has many shortcomings. Several of my colleagues have called this bill "a can of worms," and nothing could be closer to the truth. Several of the bill's provisions range across the jurisdiction of several committees of the House and deal with matters that simply ought to be dealt with elsewhere. Most importantly, however, the bill gives enormous power to the President and that should give us all pause for concern because the President has a demonstrated record of excessively allowing companies to gouge consumers with excess profits. Why anyone would think this leopard would change his spots is beyond me. But then this is an emergency situation and the Congress cannot at this time afford for the sake of the American people to delay any measure which might alleviate the crisis.

But simply because this is an emergency does not mean that the Congress should pass this bill and in effect, ship the problem downtown to the Executive because that will only further complicate the problem. The Congress needs to exercise continuing authority over the energy crisis and construct long-term solutions to the problem.

Committees, specifically the Banking Committee of which I am a member, should exercise their authority in those areas where they have jurisdiction so that the public, not just the special interests, are served. I for one, am going to do all within my power to urge my committee to exert all its influence to see that the shortages are stopped and that the people can get the energy they need at prices they can afford.

As everyone knows, the House Committee on Banking and Currency more than 8 months ago urged the President to institute an allocation program to assure that scarce petroleum products would be distributed so those that need energy would be able to obtain it. The President and administration lobbied hard against that provision. From that I think it is fair to say that the administration simply did not care whether there was a fair distribution of needed oil supplies.

It was only after the problem had reached the crisis stage that the administration took action and because of that delay we are now forced to legislate without knowing all the facts. The fact that the administration has acted at such a late date, and the fact that the administration has demonstrated an unwillingness to deal with the problem simply reinforces the need for the Congress to exercise its legislative powers on a continuing basis.

Just because we pass this bill does not mean that we should not attempt to formulate additional legislation in the second session of the 93d Congress. The problem of energy shortages will be with us for a long time, and the problem of the administration's ability and desire to execute a fair allocation program, especially to consumers will also be with us for some time.

For these reasons, I will use all my power and influence to have the House Banking Committee conduct close studies of the administration of all these energy programs. Hearings should be heard so that consumers will have an opportunity to explain on a continuing basis problems caused by oil prices and no gasoline and no heating oil, and I expect that early in the next session we will have further legislation dealing with this problem.

Mr. SYMMS. Mr. Chairman, I rise in opposition to this bill, the procedure here today, and the Government bungling of the energy needs of this country.

The old adage is so true, "anytime a political solution is sought for an economic problem the end result is massive amounts of taxpayers' money is spent only to compound the problem."

Mr. Chairman, the whole country is now painfully aware that we are in the middle of a severe shortage of energy—a shortage which not only threatens to cut into our conveniences and comforts, but into our livelihoods as well.

It is time that we all began to face facts. The most important fact today, Mr. Chairman, is that this shortage of fuel was largely caused by Government. The second most important fact is that Government, having gotten us into this mess in the first place, is at this very moment threatening to get us in still deeper.

Various Government officials whose policies caused our present crisis are right now searching frantically for scapegoats. Scapegoat No. 1 is to be the Arabs. The fact is, however, that every informed person knew at least a year ago, long before the Arab boycott started, that the

United States would face a critical shortage of fuel this winter. The most important cause of this shortage is not the Arabs, but: First, our lack of refining capacity to turn out gasoline and other fuels and second, the sharp reduction in our energy production caused by the excessive environmentalist craze which has for the past several years put the interests of ecology before the needs of the people. Both these causes of our energy crisis are in turn due to misplaced and misguided Government regulations and interventionism.

Many Government bureaucrats now even have the gall to offer us a second scapegoat—the American people. We are now told that Americans are “energy pigs” because we have 6 percent of the world’s population and use about a third of the world’s energy. What these bureaucrats, who are now mainly interested in covering up their own mistakes and saving their own skins, fail to mention is that the American people also produce over a quarter of the world’s goods and services. The Arabs, to name just one group of people, would find themselves hard pressed without American medical supplies and American technology. What would the Russians do without capitalist produced food?

The American people have no reason to be ashamed because we have automobiles and central heating. We have these things because we have worked for them and earned them.

Let me just review briefly, Mr. Chairman, exactly how Government has brought on this crisis.

First, Government put a ceiling price on natural gas. Such ceiling prices increase use and discourage exploration and the development of new sources of gas.

Second, Government has treated coal in much the same way. Banning the use of coal with high sulfur content, restricting strip mining, and, of course, freezing the price all combine to restrict supplies by reducing production. Higher production costs are forbidden to be offset with higher sales prices and so investment and new sources are once again discouraged.

Third, Atomic power, which next to coal represents our best hope for putting the country on its own two feet again, has been hamstrung and delayed by Government intervention piled upon intervention. Construction of nuclear powerplants has been delayed for years by confusing and uncertain licensing requirements. Operation at full power has been delayed even after construction and the construction of many new plants has been delayed by environmentalist lawsuits.

Fourth, With natural gas, coal, and nuclear power handicapped by the deadweight of thousands of bureaucrats, petroleum experienced the most intensive treatment of all. First of all, and most important, our refining capacity has been crippled by environmental legal tactics to restrict refining sites, by onerous Government regulations, and by the freezing of prices of oil products, thereby keeping oil companies from obtaining the needed capital for necessary expansion.

Even the pro-Government Harvard economist, John Kenneth Galbraith, agrees that—

In the United States the scarcity of gasoline and home heating oil is due primarily to a shortage of American refining capacity, which is not expected to be made up before 1977. So long as capacity is inadequate, and there is little slack elsewhere in the world, product will be short even if crude oil is available without limit.

Not content with insuring that we would have less oil than we need, at least until 1977—not just until 1974 as a highly placed optimist has recently promised—newly enacted Government regulations have required gas-guzzling emission control devices on all new cars. This one law alone has had the effect of eating up at least 20 percent of our gasoline supply.

In addition, over the past few years, Government has banned the use of oil containing a certain percentage of sulfur with obvious effects, delayed the use of much-needed Alaskan oil by interminable arguments over the ecological effect of the pipeline, and it has stopped or slowed down the drilling for new sources of offshore oil.

For good measure, the Government has been holding down the price of gasoline to a point lower than market demands, thereby insuring increased use and the inevitable market dislocations.

Not content with all this, Mr. Chairman, the same people who gave us this totally unnecessary energy shortage are now gearing up to present us with a full-scale depression. The country must realize that we are now in very serious danger of an unemployment rate ranging from 8 to 14 percent by next spring and that is nothing less than a depression.

Let me just review once again, Mr. Chairman, some of the specific half-baked schemes now being readied by the wonderful wizards of Washington.

First. The Federal Energy Administration—which through no fault of its own was born yesterday—is now seriously discussing plans to hire 2,500 bureaucrats and, as soon as they can man their desks, they will begin to implement policies which may well put over 10 million productive Americans out of work.

Second. The proposed cuts in the general aviation industry alone—40-percent cut in business general aviation—will throw at least 100,000 workers onto the unemployment rolls. This bright idea if put into effect will simply destroy an industry which the country may well need at some point in the future. My own State of Idaho, and most of the Western States, are greatly dependent upon the general aviation industry to keep our economies going. The indirect loss of jobs, needless to say, will be far greater than the 100,000 directly affected. The situation is no different in the reaction industry and will have an immediate economic impact in Idaho running into millions of dollars.

Third. The proposed sharp cuts in energy allocation for agriculture will inevitably result in food shortages and then higher food prices. The American people cannot eat oil anymore than the Arabs can; without food we cannot expect to do much else.

Fourth. There are plans for 4-day weeks. In the case of the Federal Government this might not be too bad; that way we may be able to inflict 20-percent less damage upon the rest of us. But more seriously, what we must do is work more, not less, in order to dig ourselves out of the pit the bureaucrats have pushed us into. We all must work harder to pay for the increased costs of the energy that we have become accustomed to using.

Fifth. Cutting down on speed on the highways, voluntarily saving gasoline, and turning down thermostats are certainly helpful at this time. We must not let the Government fool us, however, by talking

about these relatively small savings. The real issue, I cannot stress too often, is misplaced Government controls and interventionism. Once we get the Government off the backs of the energy producers and other hard-working Americans the problem will be solved.

Sixth. Daylight saving time, in my view, is more of this same action for action's sake which makes little difference. Setting a clock back or ahead an hour is simply like cutting the bottom off a blanket and sewing it on the top. Such brilliant ideas are always popular with bureaucrats since it means a few more jobs for people who like doing that sort of thing.

Seventh. Perhaps the very worst disaster that is waiting for us is gasoline rationing. While rationing worked to a fair degree during World War II—when we had about one-third of the cars we have now—the economy then was geared to an all-out war effort and there was a good deal of patriotic cooperation. Peacetime rationing is quite another matter. Justice does not require treating everyone alike, but treating like cases alike. It would require hundreds, perhaps thousands, of local "gasoline boards" to try to be fair to millions of Americans all of whom have different energy needs. What is fair to a city-dweller who has public transportation available is obviously unfair to a farmer in Idaho who is wholly dependent upon his car. If we are to have rationing, we had better import several battalions of Soviet bureaucrats who have had 56 years' experience in allocating materials and only foul up about half the time. The inevitable result of rationing would be a widespread black market in which disrespect for the law would grow like a cancer across the country. A market already distorted would be distorted still more. Instead of solving the energy crisis, rationing would prolong it, in fact institutionalize it. Gasoline rationing inspector would become a recognized career for young people.

Eighth. An additional tax on gasoline will not solve any problems. It would merely line Uncle Sam's pockets with taxpayer dollars without adding one drop of fuel to the supply at hand. If prices must rise, let them rise in a free market as an incentive to industry to develop new energy sources and increase refining capacity. As in all supply-demand equations, as free enterprise acts to increase supplies to take advantage of higher prices, this larger supply will force prices back into perspective. This simple rule has been infallible since man first began to barter. I am constantly amazed at bureaucratic arrogance and its belief that history can be ignored or rewritten at will.

Mr. Chairman, I cannot overemphasize the dangers which the country is now facing. I believe we have reached a point where we could do well to pay attention to the words of Herman Goering when he was a prisoner in 1945. Speaking to Henry J. Taylor, the well-known journalist, the former reichsmarshal and czar of the economy of the Third Reich, said:

Your America is doing many things in the economic fields which we found out caused so much trouble. You are trying to control people's wages and prices—people's work. If you do that, you must control people's lives. And no country can do that part way. I tried it and failed. Nor can any country do it all the way either. I tried that too and it failed. You are no better planners than we. I should think your economists would read what happened here . . . Will it be as it always has been that countries will not learn from the mistakes of others and will continue to make the mistakes of others all over again and again?

If Herman Goering finally learned this lesson, is it too much to hope for the present planners in Washington to read a little history and finally learn their lesson also?

What should be done? What can we do now to get ourselves out of the mess our Government has pushed us into? As I have been saying for the past year I have been a Member of this House, Mr. Chairman, the Government should get the hell out of the way and let American workers, farmers, and businessmen get on with the job.

First. First of all, we should repeal all the crippling ecology legislation which has grown up in the past decade. Our environment is certainly important, but Americans should be told the true cost of each of these laws. That is, they should be allowed to decide if they want to preserve a number of square miles of Alaskan wilderness and pay \$2 a gallon for their gasoline. Or, would they prefer to have a pipeline cut through Alaska and pay 50 cents a gallon? The American people have a right to the facts and the right to make their own decision.

Second. We should remove the price controls on gasoline, in fact we should remove all price and wage controls and let the free market operate. The price of gasoline will certainly rise for a while, but, with increased production, supply will rise to meet demand. When that of oil from coal, tar sands, oil shale, and conventional wells. With increased production supply will rise to meet demand. When that happens prices will fall. This process recently happened in the case of beef. A higher price for gasoline will be superior to rationing since it will insure that those who need gasoline the most will be willing to pay for it; if a low-paid worker needs gasoline to get to his job, his employer will increase his wages to meet this new need. As a matter of fact, the real price of gasoline—1973 dollars compared with 1963 dollars—has actually fallen by 8 percent in the last 10 years. So a price rise has been overdue for some time now in any event. This situation, of course, has contributed greatly to our present shortage.

In a free market, when the price of a good starts to rise three forces immediately go to work. First, people start to use the good to the extent that they really need it; second, producers and consumers begin the search for new sources or a cheaper substitute or both; and third, producers attempt to expand production by employing technology more effectively to meet the demand. It is this free market process that has always supplied our needs in the past; we will run short of energy only if we frustrate that process and hamper the free and creative efforts of our people with the dead hand of bureaucracy.

Third. We must also encourage by every means the so-called exotic sources of energy as my colleague from Arizona, Hon. John B. Conlan has recently pointed out on the floor of this House. Atomic energy, solar energy, coal gasification and liquification, geothermal energy, tidal and wind power, and magneto-hydrodynamics all offer promise of eventually making America self-sufficient in energy.

Fourth. We must not, as I have emphasized before, allow ourselves to be diverted from these permanent solutions by the sugar-coated public relations gimmicks of panicky Federal planners. Lower thermostats and slowed speeds on our highways will help carry us through this immediate situation. Attention to our export situation is needed, but let us not lose our perspective.

We are talking about 68,000 barrels a day, a great deal of which returns again to this country after foreign refinement. A good deal more of these exports leave the country from close to the Mexican and Canadian borders as a matter of geographic necessity. Pipeline is not available to retain it in the United States. Again, there is merit in all of these considerations, but they pose no long-term answers.

We must bear in mind that we are now going through America's second energy crisis. The first occurred in the middle of the 19th century when whale oil was the chief means of lighting our lamps. As our population grew, naturally more and more whale oil was required. As demand exceeded supply, the price, of course, rose. With rising prices there was pressure—and incentive—to develop a substitute. In 1859 petroleum was discovered in Pennsylvania and in 1867 kerosene broke the whale oil market. Whale oil prices fell and cheap kerosene was available to meet the increased demand. This process holds obvious lessons for us all; America's first energy crisis was solved without the use of Government controls by making use of the free market. If we had controls and rationing of whale oil in 1850, I would not like to speculate on where the country would find itself today.

A lot of my constituents are genuinely puzzled about how such a crisis could have hit us full in the face without some advance warning. I ran across an interesting quotation from the September 1960 meeting in Los Angeles of the American Association of Petroleum Geologists, in which Michel Halbouty said:

I can safely predict that between now and 1975 we will have an energy crisis in this country. Then the people will say—"The industry is to blame. Why weren't we told?"—Well, I'm telling them now.

And there is a great deal more documentation during the period from 1940 to the present in which the crisis was forecast. None is more distressing to me than a Senate Interior Committee forecast prepared in 1947. This detailed analysis of American energy proved to be remarkably accurate through 1972. Today, eight men who participated in that study still serve in this Congress—Aiken, Eastland, McClellan, Magnuson, Fulbright, Young, Sparkman, and Stennis. Why were not each and every one of these men on their feet and screaming when their colleague, Senator Mansfield, moved to virtually eliminate all coal mining on public lands right in the midst of a full-blown, critical shortage of domestic energy supplies predicted more than 25 years before?

I think I have made it clear, Mr. Chairman, where the responsibility for our present crisis lies. If we want to be self-sufficient in energy by 1980 we know where to begin. Let liberty vis-a-vis free enterprise work instead of trying to make total control vis-a-vis socialism work.

Mr. Chairman, if we here in the policymaking board do not use statesmanship and foresight today to get the Government out of the way of solving this problem, we have no future. Stop Government remedies that kill the patient. Repeal. You do not offer another length of rope to a man who is already strangling. When history is written, the blame will clearly and fairly be given to the governmentality of the politicians and constituencies of 20th century Americans.

Mr. GRAY. Mr. Chairman, I rise in support of H.R. 11450 as amended. I recognize that this has been a difficult problem to resolve

all the various and sundry views on such a critical problem as an energy crisis. In fact, there are no easy or quick solutions to the energy crisis. We in southern Illinois hold the key to the long-range solution to the oil and gas shortage. We have a 1,000-year supply of coal. Yes, Mr. Chairman, 150 billion tons of black gold that can be converted to liquid gasoline, crude oil, and natural gas. I urge the President and the administration to join the oil and gas industry by locating several conversion plants in the lower counties of Illinois. We have the water, coal, and manpower plus great communities to support an all-out effort to get such plants in operation very quickly.

Mr. Chairman, I think we should recognize that Congress did not cause the fuel crisis. I would like to list the five main reasons why we are now in this serious dilemma:

Impounding millions of dollars in funds appropriated by Congress for energy research and development—while simultaneously criticizing the Congress for not doing enough to solve the energy crisis.

Maintaining an oil import control program which kept foreign oil out of the United States during recent years while America's fuel reserves were falling to dangerously low levels.

Refusing to implement the mandatory fuel allocation authority granted by Congress until it was too late to make much impact on the distribution of fuel supplies and then, at this late date, implementing the program ineffectively.

Failing to draw up contingency plans and to stockpile adequate fuel reserves in the face of obvious political instability in the Middle East.

Mishandling the price control program by freezing gasoline prices at seasonal peaks and home heating oil at seasonal lows, thus forcing refiners to convert crude oil to gasoline instead of to heating oil in preparation for the winter months.

Mr. Chairman, let us now turn from the mistakes of the past and get on with some action. Research, development, and construction of coal to gas plants will be a great start. Then add the Alaska pipeline and hopefully the Mideast oil as additional sources plus more drilling and shale oil and we will take care of our needs now and in the future. I cannot agree with some of the provisions in this bill but it is a beginning and I hope that the other body will help clean up the legislation so the President and his administration can have additional tools they say they need to bring back the economy from this threat that is now hanging over us. Mr. Chairman, I would not want to sit down without commending my good friend the distinguished chairman of the Committee on Interstate and Foreign Commerce, Mr. Staggers and the entire committee for their diligent efforts in trying to solve a very serious problem. Thank you.

Mr. JOHNSON of California. Mr. Chairman, first may I take this opportunity to commend the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia, and the fellow members of his committee for bringing to the floor of the House of Representatives what I believe is an excellent piece of legislation meant to solve a desperate problem. The committee accomplished this really in an extremely short time especially when you consider the complexities of the issues.

I would like to address myself to one specific section of this legislation—namely, those provisions which are designed to safeguard

against unreasonable discrimination and unequitable treatment in the distribution of the energy resources of the Nation.

It is, of course, recognized that in the present energy crisis there is not enough fuel to go around and the question therefore resolves itself to how do we allocate those supplies which we have without creating a crisis of equal importance to that which we face today.

Some suggestions relative to allocation of our fuel and other energy resources would, I fear, create problems of equal or greater significance to the Nation. For instance, if a rationing program were devised with the sole purpose of forcing people to use mass transit it would be extremely discriminatory against those areas where there is no mass transit. We must provide means by which our people in the less populated areas can get to work. In other words geographically any solution to our energy emergency much be fair to all regions. To fail to achieve this goal would create massive pockets of unemployment; disrupt the delivery of raw materials, food and fiber to our urban areas. The same can be said of other segments of our economy. I do not believe that we can single out any specific industry or business to say that you must go bankrupt because there is no fuel. You must fire all of your employees because there is no fuel.

The Second Congressional District, which I represent, is a large area covering approximately one-fourth of the State of California, and offering some prime recreation areas. If we were to follow the advice of some, including the other body, and set aside recreation as a nonessential use the unemployment levels in this and other similar areas of our Nation would be astronomical. It is therefore with great feeling that I support the language of the committee which in its discussion of discrimination and inequitable treatment concluded:

No user or class of users should be called upon during this shortage period to carry an unreasonably disproportionate share of the burden. This is fundamental to the traditional notion of fairness and equal protection. The Committee expects the President and the Administrator of the Federal Energy Administration created under this Act to assiduously observe these requirements in the conduct of their functions.

As the committee says, actions have already been taken which have brought dislocation and distortions in the competitive market which have created unusual problems relative to individual groups of competitors offering similar service.

In part, this has been the unavoidable result of attempting to cope with a crisis situation without having first developed a decision-making structure which affords government an opportunity to appreciate the full ramifications of its actions. For example, there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential, such as recreational activities or various aspects of general aviation, if to do so would result in significant unemployment. There are, of course, many areas in this Nation where recreation and tourism provide the base of the local economy. Moreover, Government must equip itself so as to be able to look beyond the immediately affected industry to discover the ripple effects of its action on other supportive and relative industry groupings.

Access to adequate supplies of fuels is basic to the survival of virtually every commercial enterprise and, accordingly, Government

must act with great care to assure that its actions are equitable and do not unreasonably discriminate among users.

In conclusion, Mr. Chairman, I urge my colleagues in the House of Representatives to preserve the spirit of equity which I believe we all seek in trying to solve this immediate problem.

Mr. MINISH. Mr. Chairman. I rise in strong support of the amendment offered by the gentleman from New York (Mr. Murphy), a member of the committee.

Passage of this amendment will represent one more vote by the Congress in favor of Federal mass transit operating assistance. Back on October 3, we passed the Urban Mass Transportation Act of 1973, which I sponsored to provide \$800 million in Federal operating subsidies to the Nation's mass transit systems over the next 2 fiscal years. We are currently in conference with the Senate on that legislation and we earnestly hope to reach a final agreement shortly.

When we do conclude our conference, we will have an excellent program of operating aid to present to the President for his signature. An affirmative vote here today on the Murphy amendment will strengthen our position and the position of all who believe an essential element in overcoming the energy crisis is the development of quality urban mass transportation in the United States.

Mr. DERWINSKI. Mr. Chairman, because of the shocking procedure which was tolerated in the passage of this bill, I find it very difficult to vote "yes." On the other hand, I recognize the seriousness of the energy problem and I believe that some bill must be passed. However, in casting my vote for the bill, I must, nevertheless, protest against the parliamentary procedure as well as the great number of uncertainties that exist in this measure.

Specifically, this bill will more directly affect the lives of all citizens in our country than any other piece of legislation we will work on in the 2 years of this Congress. Yet, we have cut off debate, we have voted on amendments which were not debated, the original rule prevented normal substitutes and amendments procedures, so that what we have been laboring under is a form of gag rule. Frankly, this is as bad an example of legislative railroading as I have witnessed in my 15 years in Congress.

At the time debate was cut off, there were 77 amendments waiting at the desk. Members had no opportunity to legitimately study the merits of these amendments, and then to compound the problem, when the bill comes back from conference late next week we will be under the gun of the Christmas adjournment rush. I am fearful that the conference version will then be railroaded through. Months later when Members are flooded with complaints from their constituents over the procedures being applied under the authority of this act, what explanation can those who voted to gag the House and prevent full discussion and consideration given to their irate constituents.

This bill is so important that it should have had additional time in committee and additional time on floor debate, and it could have been passed in a much better form before we adjourn next week.

Mrs. HECKLER of Massachusetts. Mr. Chairman, all of us have seen reports that petroleum products are being exported from this country, despite the shortages now existing, and the threats of industry

shutdowns. Of particular note are the continued exports of petrochemical feedstocks, which are the vital raw materials for a number of specialized industries.

Realistically, we cannot expect the big oil companies to voluntarily pass up the opportunity for bigger profits by exporting their products abroad. Each would merely wait for the other to act first, fearing that the competitor would gain a competitive advantage by continuing to sell overseas.

In fairness, the prohibition must apply to all companies across the board.

This will require Government action, and so far this administration has shown little inclination to force the big oil companies to make any sacrifices in the national interest.

Since 1969, the executive branch has had authority to control the export of critical materials, under the Export Administration Act. This authority has been little used, and never in the case of petroleum exports.

Again, several weeks ago, we passed and sent to the President the Emergency Petroleum Allocation Act, Public Law 93-159, which contained in **section 4** language which strongly indicated that Congress wanted the termination of exports during this crisis. Unfortunately, that language left much to the discretion of the executive branch, the effect of which has been that nothing has been done to control exports.

So it seems that nothing will be done to keep petroleum products in this country until there is a direct congressional mandate to do so.

My preference would be to go to the heart of this problem, and to do so without disrupting several export programs which are still beneficial to the United States.

Exceptions to this prohibition should include—

Our reciprocal arrangements with Canada and Mexico, and the Netherlands;

Those exports which are for resale back to the United States.

I am only interested in prohibiting those exports which are for sale of the product overseas. I recognize, as I am sure do others in this Chamber, that American companies are now exporting crude oil to foreign refineries, the product of which is then imported back into this country. This allows the companies to get around the problem of limited domestic refinery capacity.

Mr. VANIK. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. Anderson) to require the Federal Government to use more energy efficient automobiles in its future car purchases.

The automobile has become an important American institution. Direct gasoline consumption by cars represents 13 percent of our total energy budget. In 1970 more than 95 percent of urban passenger traffic and 85 percent of inter-city traffic was carried by the automobile. The auto has become the major cause of the congestion which chokes our cities. At the same time it is responsible for almost one-half of the emissions by weight which pollute our air. Between 1950 and 1970 automobile travel increased threefold to 900 billion vehicle miles. During the same period per capita auto travel increased by 85 percent.

Unfortunately, while we have become more and more dependent on the automobile, we have failed to develop a more efficient type of auto.

Our streets are clogged with gas guzzlers that are nearly obsolete in today's energy short world.

Due in large part to its voracious appetite for energy, our country is facing the likelihood of significant trade imbalances from our energy needs. The net foreign exchange burden may be as high as \$10 billion by 1980. We owe it to ourselves—to our national security—to eliminate wasteful consumption of precious petroleum. If America's 92.7 million passenger cars could increase in efficiency from 12 miles per gallon to 18 miles per gallon, the Nation could save over 25 billion gallons of gasoline per year—a significant saving in view of our present overreliance on foreign petroleum supplies.

The amendment now before the House seeks to encourage the market for and development of more efficient automobiles. By writing in this requirement, the Federal Government can help lead the way in using more efficient forms of transportation.

I urge the adoption of the amendment.

Mr. DORN. Mr. Chairman, yesterday I believe I made a mistake in supporting the so-called antibusing amendment to this act. This was the amendment which would deny fuel to certain school districts for transportation purposes. During the debate on that amendment we were holding hearings in our Public Works Economic Development Subcommittee on the problems of revitalizing our rural areas. When I supported the so-called busing amendment I did so as it was represented to me as being primarily a question of fuel.

I support the Eckhardt amendment today because it would go a long way toward rectifying the mistake the House made yesterday. The Eckhardt amendment would make it clear that nothing adopted yesterday would deny fuel for student transportation within an area in which students are required to be transported as a result of lawful action by school authorities.

After studying the debate on the so-called antibusing amendment adopted yesterday I am now convinced it was a resurrection of the old antibusing amendments which I have consistently opposed. These are simply attempts to get Detroit, Denver and some other urban areas off the hook. When we in South Carolina have bused voluntarily, or under court order or HEW decree it is most unfair to us to be penalized for upholding the law.

Since we have abided by the law then I feel that the Federal Government should help us provide safer, more and better buses for our schoolchildren. It is completely unfair to deny us use of our local and State funds to carry out court orders, HEW decrees and yes, voluntary plans. The amendment approved yesterday would only penalize those who have complied with the law, and those who devised voluntary plans for busing to improved and consolidated schools.

Mr. Chairman, I do not believe that the so-called antibusing amendment has a chance of remaining in the final version of this bill. The amendment had no business in this legislation. I made a mistake in supporting it and my vote was inconsistent with all my past votes against amendments designed to get Detroit off the hook and which would penalize States like South Carolina.

Mr. Chairman, should this unwise and unfair amendment remain in the House bill I will use every opportunity to have it stricken.

Should this provision remain in the final version of the bill it would give the administration arbitrary power to cut off fuel supplies for education transportation at a time when fuel is already in critically short supply. This power should not be given to any agency, any department, or even to the Chief Executive. If this so-called antibusing amendment is in the energy bill after final passage I will urge the House-Senate conferees to delete it entirely.

Mr. RANDALL. Mr. Chairman, I oppose H.R.11882 as amended so repeatedly in the Committee of the Whole, for reasons I shall outline.

Out in the Middle West there is a saying, "You can load a wagon down so heavily it cannot move." That, in my judgment, is what we have done to H.R. 11882. There have been times during this long debate of the past 3 days that I felt if certain amendments were adopted I might be able to stomach some of the objectionable portions of the Committee effort. But when the Committee of the Whole defeated the very reasonable amendment to temporarily modify the emission devices on late model cars as an important means to conserve large quantities of motor fuel, it is impossible to support what is left.

My remarks are contained elsewhere in the Record today in relation to the proposal that emission requirements for cars registered to a resident of those parts of the United States having no significant air pollution should be suspended for the duration of the energy crisis.

There are over 30 major provisions of this Emergency Energy Act, but the bill is drawn in a confusing and disorderly manner. Perhaps this is because of the extreme time pressure under which it was written. The report which accompanies the bill is superficial in both its explanations and definitions.

Mr. Chairman, one colleague said to me that all we are doing with this bill is fooling the public. From the viewpoint of an individual Member that thought could be translated to the proposition that all we are doing is fooling our constituents. Everything that is provided in this bill has already been enacted into law. There are a series of statutes in the nature of emergency powers that have never been repealed. Last April we extended the Economic Stabilization Act which I supported. This summer we passed the Mandatory Allocation Act which I supported and which was signed by the President within the recent past.

Yes, everything was covered by the two bills passed by Congress earlier this year save and except the rationing of petroleum products. The chairman of the committee which managed the bill on the floor was heard to say that the word rationing was not mentioned in the bill and that he was opposed to rationing. Yet, during the debate, it was acknowledged that "in-use" allocation was one and the same as rationing, exactly that and nothing more. The time may come in the future when rationing may be a last resort. But we have not reached that point yet because the Federal Energy Administrator 2 days ago announced the country has already accomplished a 15-percent drop in gas consumption in the 3-week period just passed.

Americans are responding. They should be thanked for their efforts. For that reason I do not intend to burden them with rationing with all its hardships and all of its evil consequences that inevitably result from such a course.

We should all bear in mind that H.R. 11882 cannot increase the total quantity of fuel. It will do nothing except to limit use in the short run. We would have done better to spend our time on an energy research bill which would have increased the total quantity of energy.

But, Mr. Chairman, there are so many other things wrong with this bill. The House refused removal of emission devices that would save fuel. Then there was not a single reference in this entire bill that provides for any local voice in the administration of gasoline rationing; there was no single reference to any consultation or delegation of any authority to any Governor, or mayor or county official. Surely the recollection of some of the problems that occurred during the time of rationing during World War II should have been enough to avoid the mistakes we make in this bill of too much centralized authority and decisionmaking here in Washington.

One of my very strong objections to this bill is the listing of the vital services which must be provided for and which amount to nothing more or less than a listing of priorities in the event that rationing does come. I was amazed to note that agriculture is rated seventh.

Now we all know that public services including fire, police and ambulance service and the hospitals as well as the production of energy itself should be listed as a first priority but to put agriculture way down to the low priority that it has been assigned in this bill neglects and the importance of the production and transporting of farm products that are so vital to the life of our country.

There are some good provisions in H.R. 11882 but they are very few in relation to the objectionable features. I oppose this bill because if I were to support it it would imply that I believed it would alleviate the energy crisis. As I said before, it proposes no actions that cannot already be taken by bills passed except perhaps the deceptive "in-use allocation."

I have no idea how long it will take to decipher this bill because it contains confusing and overlapping provisions which have produced a confused piece of legislation. It would have been better if we were to work on a bill providing new sources of energy, as well as let up on emission standards until the emergency is lessened.

Finally, perhaps the best description of the objectives are found in the remarks of one of our colleagues who says that this bill can create a top-heavy bureaucracy and do precious little about the problem of energy supply. Rationing can only result in a maze of bureaucratic entanglements that can confuse the public particularly those in the moderate- to low-income bracket.

Finally in opposing this legislation I am voting to deny the President a domestic "Gulf of Tonkin Resolution."

The CHAIRMAN. Are there further amendments to the amendment in the nature of a substitute? If not the question is on the amendment in the nature of a substitute, as amended.

(The amendment in the nature of a substitute, as amended, was agreed to.)

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11450) to direct the President

to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes, pursuant to House Resolution 744, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. SHOUP. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SHOUP. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Shoup moves to recommit the bill H.R. 11450 to the Committee on Interstate and Foreign Commerce.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

RECORDED VOTE

Mr. SHOUP. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 173, noes 205, not voting 54, as follows:

[Roll No. 688]

AYES—173

Abdnor	Burgener	Dellums
Abzug	Burke, Fla.	Denholm
Andrews, N. Dak.	Burleson, Tex.	Dennis
Archer	Camp	Devine
Armstrong	Casey, Tex.	Dickinson
Ashbrook	Cederberg	Dorn
Badillo	Chappell	Downing
Baker	Clancy	Duncan
Bauman	Collier	Edwards, Calif.
Beard	Collins, Ill.	Eilberg
Bevill	Collins, Tex.	Evins, Tenn.
Biaggi	Conlan	Fisher
Bingham	Corman	Flowers
Blackburn	Crane	Fraser
Brasco	Daniel, Dan	Frey
Bray	Daniel, Robert W., Jr.	Fulton
Brinkley	Davis, S.C.	Fuqua
Brooks	Davis, Wis.	Gettys
Brown, Calif.	de la Garza	Goldwater
Brown, Mich.	Dellenback	Goodling

Gross	McSpadden	Scherle
Grover	Madigan	Schneebeli
Gunter	Martin, Nebr.	Sebelius
Guyer	Martin, N.C.	Shipley
Hammer Schmidt	Mathis, Ga.	Shoup
Hanna	Mayne	Shuster
Hanrahan	Mazzoli	Sikes
Hansen, Idaho	Michel	Slack
Harrington	Milford	Snyder
Hawkins	Miller	Spence
Hechler, W. Va.	Minish	Stark
Helstoski	Mink	Steed
Hicks	Mitchell, Md.	Steelman
Hinshaw	Moorhead, Calif.	Steiger, Ariz.
Holt	Myers	Steiger, Wis.
Holtzman	Natcher	Stubblefield
Howard	Nichols	Studds
Hungate	Obey	Symms
Jarman	O'Brien	Teague, Tex.
Johnson, Colo.	Parris	Thompson, N.J.
Johnson, Pa.	Pike	Thomson, Wis.
Jones, Okla.	Powell, Ohio	Thone
Jones, Tenn.	Price, Tex.	Towell, Nev.
Jordan	Quie	Treen
Kastenmeier	Quillen	Vander Jagt
Kazen	Randall	Waggoner
Kemp	Rangel	Waldie
Ketchum	Rarick	Wiggins
Koch	Regula	Williams
Kuykendall	Roberts	Wilson, Charles H., Calif.
Landgrebe	Robinson, Va.	Wilson, Charles, Tex.
Latta	Rodino	Wolff
Lent	Roe	Wyman
Lott	Rousselot	Young, Alaska
Lujan	Roybal	Young, Fla.
McCollister	Ruth	Young, S.C.
McEwen	Ryan	Young, Tex.
McKinney	Satterfield	

NOES—205

Adams	Broyhill, N.C.	Delaney
Addabbo	Broyhill, Va.	Derwinski
Alexander	Buchanan	Dingell
Anderson, Calif.	Burke, Mass.	Donohue
Anderson, Ill.	Burlison, Mo.	Drinan
Andrews, N.C.	Burton	Dulski
Annunzio	Butler	du Pont
Arends	Byron	Eckhardt
Ashley	Carney, Ohio	Edwards, Ala.
Aspin	Carter	Esch
Bafalis	Chamberlain	Eshleman
Barrett	Clausen, Don H.	Evans, Colo.
Bennett	Cleveland	Fascell
Bergland	Cochran	Findley
Biester	Cohen	Fish
Blatnik	Conable	Flood
Boland	Conte	Flynt
Bolling	Cotter	Foley
Bowen	Coughlin	Ford, William D.
Brademas	Cronin	Forsythe
Breckinridge	Culver	Fountain
Broomfield	Daniels, Dominick V.	Frelinghuysen
Brotzman	Danielson	Frenzel
Brown, Ohio	Davis, Ga.	Frœhlich

Gaydos	Maraziti	Roy
Giaimo	Mathias, Calif.	Ruppe
Gibbons	Matsunaga	St Germain
Gilman	Mezvinsky	Sarasin
Ginn	Minshall, Ohio	Sarbanes
Gonzalez	Mitchell, N.Y.	Schroeder
Grasso	Mizell	Seiberling
Green, Oreg.	Moakley	Shriver
Green, Pa.	Mollohan	Sisk
Gude	Montgomery	Skubitz
Haley	Moorhead, Pa.	Smith, Iowa
Hamilton	Mosher	Smith, N.Y.
Hanley	Moss	Staggers
Hansen, Wash.	Murphy, Ill.	Stanton, J. William
Hastings	Murphy, N.Y.	Stanton, James V.
Heckler, Mass.	Nedzi	Stephens
Heinz	Nelsen	Stratton
Henderson	O'Hara	Stuckey
Hillis	O'Neill	Symington
Hogan	Owens	Taylor, N.C.
Holifield	Passman	Teague, Calif.
Horton	Patten	Thornton
Hosmer	Pepper	Tiernan
Huber	Perkins	Udall
Hudnut	Pettis	Ullman
Jones, Ala.	Peyser	Van Deerlin
Jones, N.C.	Pickle	Vanik
Karth	Poage	Vigorito
Kyros	Podell	Wampler
Landrum	Preyer	White
Leggett	Price, Ill.	Whitehurst
Lehman	Pritchard	Whitten
Litton	Railsback	Widnall
Long, La.	Rees	Wilson, Bob
Long, Md.	Reid	Winn
McClory	Reuss	Wyder
McCloskey	Rhodes	Wylie
McCormack	Rinaldo	Yates
McDade	Robison, N.Y.	Yatron
McFall	Rogers	Young, Ga.
McKay	Roncalio, Wyo.	Young, Ill.
Madden	Rooney, Pa.	Zablocki
Mahon	Rose	Zion
Mallary	Rostenkowski	
Mann	Roush	

NOT VOTING—54

Bell	Hays	Riegle
Boggs	Hébert	Roncallo, N.Y.
Breaux	Hunt	Rooney, N.Y.
Burke, Calif.	Hutchinson	Rosenthal
Carey, N.Y.	Ichord	Runnels
Chisholm	Johnson, Calif.	Sandman
Clark	Keating	Steele
Clawson, Del.	King	Stokes
Clay	Kluczynski	Sullivan
Conyers	Macdonald	Talcott
Dent	Mailliard	Taylor, Mo.
Diggs	Meeds	Veysey
Erlenborn	Melcher	Walsh
Gray	Metcalfe	Ware
Griffiths	Mills, Ark.	Whalen
Gubser	Morgan	Wright
Harsha	Nix	Wyatt
Harvey	Patman	Zwach

So the motion to recommit was rejected.
The Clerk announced the following pairs:

On this vote:

Mr. Hays for, with Mr. Rooney of New York against.
Mr. Runnels for, with Mr. Dent against.
Mr. Clark for, with Mrs. Boggs against.
Mr. Clay for, with Mr. Johnson of California against.
Mr. Stokes for, with Mr. Hébert against.
Mrs. Chisholm for, with Mr. Riegle against.
Mrs. Griffiths for, with Mr. Morgan against.
Mr. Melcher for, with Mr. Kluczynski against.
Mr. Ichord for, with Mr. Breaux against.
Mr. Nix for, with Mr. Mills of Arkansas against.
Mr. Conyers for, with Mr. Carey of New York against.
Mr. Diggs for, with Mr. Gray against.
Mr. Metcalfe for, with Mr. Meeds against.
Mr. Taylor of Missouri for, with Mr. Hunt against.
Mr. King for, with Mr. Sandman against.
Mr. Roncallo of New York for, with Mr. Wright against.

Until further notice:

Mr. Patman with Mr. Zwach.
Mrs. Burke of California with Mr. Keating.
Mr. Macdonald with Mr. Steele.
Mr. Rosenthal with Mr. Bell.
Mrs. Sullivan with Mr. Del Clawson.
Mr. Ware with Mr. Wyatt.
Mr. Erlenborn with Mr. Gubser.
Mr. Hutchinson with Mr. Mailliard.
Mr. Walsh with Mr. Talcott.
Mr. Harvey with Mr. Whalen.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. SCHERLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. The vote was taken by electronic device; and there were—yeas 265, nays 112, answered "present" 3, not voting 52, as follows:

[Roll No. 689]

YEAS—265

Abdnor
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Aspin
Bafalis
Bennett
Bergland
Biaggi
Biester
Bingham
Blatnik
Boland
Bolling
Bowen
Brademas

Brasco
Bray
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Clancy

Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, Wis.
Delaney
Derwinski
Devine
Dingell
Donohue

- Downing
 Drinan
 du Pont
 Eckhardt
 Edwards, Ala.
 Eilberg
 Esch
 Eshleman
 Evans, Colo.
 Fascell
 Findley
 Fish
 Fisher
 Flood
 Flowers
 Flynt
 Foley
 Ford, William D.
 Forsythe
 Fountain
 Frenzel
 Frey
 Froehlich
 Fuqua
 Gaydos
 Gettys
 Giaimo
 Gibbons
 Gilman
 Ginn
 Grasso
 Gray
 Green, Oreg.
 Green, Pa.
 Gude
 Gunter
 Haley
 Hamilton
 Hanley
 Hanrahan
 Hansen, Wash.
 Hastings
 Heckler, Mass.
 Heinz
 Helstoski
 Henderson
 Hillis
 Hinshaw
 Hogan
 Holifield
 Holt
 Horton
 Hosmer
 Howard
 Huber
 Hudnut
 Johnson, Pa.
 Jones, Ala.
 Jones, N.C.
 Karth
 Koch
 Kuykendall
 Kyros
 Landrum
 Lehman
 Litton
 Long, La.
 Long, Md.
 Lott
 McClory
 McCloskey
 McCollister
 McCormack
 McDade
 McFall
 McKay
 McKinney
 Madden
 Mallary
 Mann
 Maraziti
 Martin, N.C.
 Mathias, Calif.
 Mathis, Ga.
 Matsunaga
 Mayne
 Mezvinsky
 Milford
 Minish
 Mink
 Minshall, Ohio
 Mitchell, N.Y.
 Mizell
 Moakley
 Mollohan
 Montgomery
 Moorhead, Pa.
 Mosher
 Moss
 Murphy, Ill.
 Murphy, N.Y.
 Natcher
 Nedzi
 Nelsen
 Nichols
 Obey
 O'Brien
 O'Hara
 O'Neill
 Owens
 Passman
 Patten
 Pepper
 Perkins
 Pettis
 Peyser
 Pickle
 Podell
 Preyer
 Price, Ill.
 Pritchard
 Quie
 Quillen
 Railsback
 Rees
 Reid
 Reuss
 Rhodes
 Rinaldo
 Robinson, Va.
 Robison, N.Y.
 Roe
 Rogers
 Roncalio, Wyo.
 Rooney, Pa.
 Rose
 Rostenkowski
 Roush
 Roy
 Ruppe
 Ruth
 St Germain
 Sarasin
 Sarbanes
 Satterfield
 Scherle
 Schroeder
 Seiberling
 Shriver
 Sikes
 Sisk
 Skubitz
 Smith, Iowa
 Smith, N.Y.
 Snyder
 Staggers
 Stanton, J. William
 Stanton, James V.
 Steiger, Wis.
 Stephens
 Stratton
 Stubblefield
 Stuckey
 Symington
 Taylor, N.C.
 Teague, Calif.
 Thomson, Wis.
 Thone
 Tiernan
 Treen
 Udall
 Ullman
 Van Deerlin
 Vander Jagt
 Vanik
 Vigorito
 Wampler
 White
 Whitehurst
 Whitten
 Widnall
 Wiggins
 Williams
 Wilson, Bob
 Winn
 Wolff
 Wydler
 Wylie
 Wyman
 Yates
 Yatron
 Young, Ga.
 Young, Ill.
 Young, Tex.
 Zablocki
 Zion

NAYS—112

Abzug	Goodling	Pike
Archer	Gross	Poage
Armstrong	Grover	Powell, Ohio
Ashbrook	Guyer	Price, Tex.
Badillo	Hammerschmidt	Randall
Baker	Hanna	Rangel
Barrett	Hansen, Idaho	Rarick
Bauman	Harrington	Regula
Beard	Hawkins	Roberts
Bevill	Hechler, W. Va.	Rodino
Blackburn	Holtzman	Rousselot
Brooks	Hungate	Roybal
Brown, Calif.	Jarman	Ryan
Burke, Fla.	Johnson, Colo.	Schneebeli
Burleson, Tex.	Jones, Okla.	Sebelius
Burton	Jones, Tenn.	Shipley
Camp	Jordan	Shoup
Casey, Tex.	Kastenmeier	Shuster
Collins, Ill.	Kazen	Slack
Conlan	Kemp	Spence
Corman	Ketchum	Stark
Crane	Landgrebe	Steed
Davis, S.C.	Latta	Steelman
de la Garza	Lent	Steiger, Ariz.
Dellenback	Lujan	Studds
Dellums	McEwen	Symms
Denholm	McSpadden	Teague, Tex.
Dennis	Madigan	Thompson, N.J.
Dickinson	Mahon	Thornton
Dorn	Martin, Nebr.	Towell, Nev.
Dulski	Mazzoli	Waggonner
Duncan	Michel	Waldie
Edwards, Calif.	Miller	Wilson, Charles H., Calif.
Evins, Tenn.	Mitchell, Md.	Wilson Charles, Tex.
Fraser	Moorhead, Calif.	Young, Alaska
Fulton	Myers	Young, Fla.
Goldwater	Parris	Young, S.C.
Gonzalez		

ANSWERED "PRESENT"—3

Frelinghuysen	Hicks	Leggett
NOT VOTING—52		
Bell	Hunt	Rooney, N.Y.
Boggs	Hutchinson	Rosenthal
Breaux	Ichord	Runnels
Burke, Calif.	Johnson, Calif.	Sandman
Chisholm	Keating	Steele
Clark	King	Stokes
Clawson, Del.	Kluczynski	Sullivan
Clay	Macdonald	Talcott
Conyers	Mailliard	Taylor, Mo.
Dent	Meeds	Veysey
Diggs	Melcher	Walsh
Erlenborn	Metcalfe	Ware
Griffiths	Mills, Ark.	Whalen
Gubser	Morgan	Wright
Harsha	Nix	Wyatt
Harvey	Patman	Zwach
Hays	Riegle	
Hébert	Roncallo, N.Y.	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Leggett for, with Mr. Hays against.
 Mr. Meeds for, with Mr. Hicks against.
 Mr. Hébert for, with Mr. Clark against.
 Mr. Rooney of New York for, with Mrs. Griffiths against.
 Mr. Kluczynski for, with Mrs. Chisholm against.
 Mrs. Boggs for, with Mr. Melcher against.
 Mr. Breaux for, with Mr. Nix against.
 Mr. Mills of Arkansas for, with Mr. Diggs against.
 Mr. Dent for, with Mr. Conyers against.
 Mr. Morgan for, with Mr. Metcalfe against.
 Mr. Riegle for, with Mr. Metcalfe against.
 Mr. Johnson of California for, with Mr. Runnels against.
 Mr. Wright for, with Mr. Ichord against.
 Mr. Hunt for, with Mr. Stokes against.
 Mr. Sandman for, with Mr. Rosenthal against.
 Mr. Steele for, with Mr. King against.
 Mr. Ware for, with Mr. Taylor of Missouri against.
 Mr. Whalen for, with Mr. Roncallo of New York against.

Until further notice:

Mrs. Burke of California with Mr. Keating.
 Mr. Macdonald with Mr. Mailliard.
 Mr. Patman with Mr. Gubser.
 Mrs. Sullivan with Mr. Harvey.
 Mr. Bell with Mr. Zwach.
 Mr. Erlenborn with Mr. Hutchinson.
 Mr. Walsh with Mr. Talcott.
 Mr. Wyatt with Mr. Del Clawson.

Mr. HICKS. Mr. Speaker, I have a live pair with the gentleman from Washington (Mr. Meeds). If he had been present he would have voted, "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. LEGGETT. Mr. Speaker, I have a live pair with the gentleman from Ohio (Mr. Hays). If he had been present he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

The title was amended so as to read:

A bill to assure, through energy conservation, end-use allocation of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.
The Clerk read as follows:

Mr. Staggers moves to strike out all after the enacting clause of the Senate bill S. 2589 and to insert in lieu thereof the provisions contained in H.R. 11450 as passed by the House, as follows:

That this act, including the following table of contents, may be cited as the "Energy Emergency Act".

TABLE OF CONTENTS

TITLE I—ENERGY EMERGENCY AUTHORITIES

- Sec. 101. Purpose.
- Sec. 102. Definitions.
- Sec. 103. Amendments to the Emergency Petroleum Allocation Act of 1973.
- Sec. 104. Federal Energy Administration.
- Sec. 105. Energy conservation.
- Sec. 106. Coal conversion and allocation.
- Sec. 107. Regulated carriers.
- Sec. 108. Delegation of authority.
- Sec. 109. Administration.
- Sec. 110. Prohibited acts.
- Sec. 111. Enforcement.
- Sec. 112. Grants to States.
- Sec. 113. Fair marketing of petroleum products.
- Sec. 114. Voluntary energy conservation agreements.
- Sec. 115. Prohibitions on unreasonable allocation regulations.
- Sec. 116. Use of carpools.
- Sec. 117. Prohibition on price grouping.
- Sec. 118. Importation of liquified natural gas.
- Sec. 119. Development of additional electric power resources.
- Sec. 120. Antitrust provisions.
- Sec. 121. Comprehensive review of export foreign investment policies.
- Sec. 122. Employment impact and worker assistance.
- Sec. 123. Exports.
- Sec. 124. Prohibit of petroleum exports for military operations in Indochina.
- Sec. 125. Report and termination date.
- Sec. 126. Reports on National energy sources.
- Sec. 127. Development of processes for the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

- Sec. 201. Suspension authority.
- Sec. 202. Implementation plan revisions.
- Sec. 203. Motor vehicle emissions.
- Sec. 204. Conforming amendments.
- Sec. 205. Protection of public health and environment.
- Sec. 206. Energy conservation study.
- Sec. 207. Reports.
- Sec. 208. Recommendations for siting of energy facilities.
- Sec. 209. Fuel economy study.
- Sec. 210. Fuel allocations.

TITLE I—ENERGY EMERGENCY AUTHORITIES

Sec. 101. PURPOSE.

The purpose of this act is to call for proposals for energy emergency conservation measures and to authorize specific temporary emergency actions to be exercised to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable, (1) is consistent with existing national commitments to protect and improve the environment, (2) minimizes any adverse impact on employment, (3) provides for equitable treat-

ment of all sectors of the economy, and (4) maintains vital services necessary to health, safety, and public welfare, and (5) insures against anticompetitive practices and effects, and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

Sec. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Administration.

Sec. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:

"(h) (1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agricultural operations as defined in paragraph (1) (C) of subsection (b) of this section, collection, transportation and delivery of mail by the United States Postal Service, its lessors, contractors and carriers, and transportation services, which are necessary to the preservation of health, safety, employment, and the public welfare).

"(2) The President shall by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product in such manner and in such amounts to permit such users to obtain any such oil or product based upon such entitlements.

"(3) The President shall provide for procedures by which any user of such oil or product for which priorities and entitlements are established under paragraphs (1) and (2) of this section may petition for review and reclassification or modification of any determination made under such paragraphs with respect to his priority or entitlement. Such procedures may include procedures with respect to local boards as may be established pursuant to section 109(c) of the Energy Emergency Act.

"(4) The President may, by order or rule (which rule shall be deemed a part of the regulation under subsection (a)), require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum products produced through such operations if he finds that such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions necessary to attain the objectives of subsection (b) of this section.

"(5) The President shall consult with the Department of Labor, and if there is an increase in the level of unemployment from the level of unemployment in 1973 based upon the average 1973 figures and such increase reasonably results from energy shortages, then the President is urged to take such actions consistent with the provisions of this Act, and he is authorized to take under this Act and any other Acts to encourage full production by the domestic energy industry at levels of investment return which make possible the expansion of facilities required to assure against a protraction in any such increased levels of unemployment.

"(6) For purposes of this subsection, the term 'allocation' shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

"(1) The President may, by order, require the production of crude oil at the producer level at the maximum efficient rate of production.

"(2) The President shall consult with the Department of the Interior and with appropriate State governments in order to determine which producers should be reasonably required to produce crude oil at the rates specified in paragraph (1) of this subsection.

"(3) For purposes of this subsection, maximum efficient rate with respect to any oilfield other than oilfields on Federal lands shall be such rate as is determined by the State in which such oilfield is located, and with respect to any oilfield on Federal land shall be such rate as is determined by the Department of the Interior, except that the President may establish after consultation with such State (or with the Department of the Interior, in the case of any oilfield on Federal lands) a maximum efficient rate higher than the rate established by the State or by the Department of the Interior if he determines that such higher maximum efficient rate will not unreasonably impair the ultimate recovery of crude oil or natural gas from any such oilfield under sound engineering and economic principles.

"(4) The President shall direct the appropriate Federal agency to require that all existing and future development plans for oilfields involving Federal leases, permits or other arrangements for production of crude oil on Federal lands shall include or be amended to include effective provisions for the secondary recovery of crude oil, and, to the greatest extent technologically possible consistent with sound engineering and economic principles, for the tertiary recovery of crude oil, before the well is abandoned.

"(j) Notwithstanding any other provision of this Act, or any provision of State or local law with respect to the allocation of gasoline or diesel fuel, there shall be provision for adequate supplies of gasoline, diesel fuel related products for essential and purposeful mobility of persons in the armed services of the United States on military orders, for household moves related to employment or displacement due to unemployment, and for moves due to health, educational opportunities, or other good and sufficient reasons.

"(k) (1) Except as provided in paragraph (3) of this subsection, no provision of the regulation under subsection (a) (including a regulation under subsection (h)) may provide for allocation of any refined petroleum product to any person (including a State or political subdivision thereof, or State or local educational agency) if the product so allocated will be used for the transportation of any public school student to a school farther than the public school closest to his home offering educational courses for the grade level and course of study of the student within the boundaries of the school attendance district wherein the student resides.

"(2) Any energy conservation plan proposed under section 105 of the Energy Emergency Act and any regulation under this section for allocation of petroleum products for transportation of public school students shall have as its purpose conserving refined petroleum products by reducing to the minimum the distance traveled by such students to and from the schools within the school attendance district in which the student resides. Such plans shall be formulated in consultation with the affected State and local educational agencies.

"(3) Nothing in this subsection shall prohibit allocation of refined petroleum products for student transportation to relieve conditions of overcrowding; to meet the needs of special education; or where the transportation is within the regularly established neighborhood school attendance areas.

"(4) This subsection shall not take effect until August 1, 1974.

"(1) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, or unusual factors influencing use, of the product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act."

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973, as amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production of extraction of—

"(1) fuels, and

"(2) minerals essential to the requirements of the United States, and for required transportation related thereto;"

(c) Section 4(c)(3) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "or" immediately before "(B)" and by inserting immediately before the period at the end thereof the following: ", or (C) to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to the date of enactment of this Act as a result of unusual regional climatic variations within the United States".

(d) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

(e) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by inserting at the end thereof the following new subsections:

"(1) (1) The President shall transmit any rule (other than any technical or clerical amendments) which amends the regulation (promulgated pursuant to subsection (a) of this section) with respect to end-use allocation authorized under subsection (h) of this section.

"(2) Any such rule with respect to end-use allocation shall, for purposes of subsections (m) and (n) of this section, be treated as an energy action and shall take effect only if such actions are not disapproved by either House of Congress as provided in subsections (m) and (n) of this section.

"(m) Disapproval of Congress.—

"(1) For purposes of this section, the term 'energy action' means any rule under subsection (1) or repeal of such rule.

"(2) The President shall transmit any energy action (hearing an identification number) to the Congress. The President shall have such action delivered to both Houses on the same day and to each House while it is in session.

"(3) Except as otherwise provided in paragraph (4) of this section, an energy action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy section—

"(4) For the purpose of subsection (1) of this section—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-day period.

"(5) Under provisions contained in an energy action, a provision of the plan may be effective at a time later than the date on which the action otherwise is effective.

"(6) An energy action which is effective shall be printed in the Federal Register.

"(n) DISAPPROVAL PROCEDURE.—

"(1) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2) For the purpose of this subsection, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the _____ does not favor the energy action numbered _____ transmitted to Congress by the President on _____',

19 .', the first blank space therein being filed with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

"(3) A resolution with respect to an energy action shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the

same committee) by the President of the Senate or the Speaker of the House of Representatives as the case may be.

"(4) (A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the energy action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

"(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy action, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy action, and motions to proceed to the consideration of other business, shall be decided without debate.

"(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy action shall be decided without debate."

Sec. 104. FEDERAL ENERGY ADMINISTRATION.

(a) There is hereby established a Federal Energy Administration, to be headed by a Federal Energy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator may be removed by the President for cause. The Administrator shall serve for a term ending on May 15, 1975. Vacancies in the office of Administrator shall be filled for the remainder of the term of the original Administrator, in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under sections 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by sections 103, 117, and 118 of this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d) Price Control and Shortages. The President and the Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of petroleum products, coal, natural gas, and petrochemical feed-

stocks, and of materials associated with the production of energy supplies, and equipment necessary to maintain and increase the exploration and production of coal, crude oil, natural gas, and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act.

(e) Section 27(k) of the Consumer Product Safety Act shall apply to the Administrator. The Federal Energy Administration shall be considered an independent regulatory agency for purposes of chapter 33 of title 44, United States Code.

Sec. 105. ENERGY CONSERVATION PLANS.

(a) Within 30 days of the date of enactment of this Act and from time to time thereafter, the Administrator shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under other authority of this or other Acts to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section the term "energy conservation plans" means proposed plans for transportation controls (including highway speed limits, and plans for maximizing car pooling arrangements in all communities and business where applicable, priority allocation plans for energy conserving recyclable raw materials for use within the United States, or such other restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption. The Administrator shall submit such plans to the Congress for appropriate action.

(b) Energy conservation plans shall provide for the maintenance of vital services (including new housing construction, education, health care, hospitals, public safety, energy production, agricultural operations as defined in paragraph (1) (C) of subsection (b) of section 4 of the Emergency Petroleum Allocation Act of 1973, collection, transportation and delivery of mail by the United States Postal Service, its lessors, contractors and carriers, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

(c) Plans submitted by the Administrator pursuant to subsection (a) of this section shall provide that, to the maximum extent practicable, proposed restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restrictions on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply groceries or goods and services of a convenience nature during times of day other than conventional daytime working hours.

(d) Energy conservation plans submitted pursuant to this section shall include proposals to provide for Federally sponsored incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service.

(e) Nothing in this section or any other provision of this Act or of the Emergency Petroleum Allocation Act of 1973 shall be construed as authorizing the imposition of any tax.

Sec. 106. COAL CONVERSION AND ALLOCATION.

(a) PROHIBITION OF USE OF NATURAL GAS AND PETROLEUM PRODUCTS BY CERTAIN USERS.—The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in subsection (b) of this section until January 1, 1980. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact.

A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator may require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed if (1) to do so would be unreasonable or would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether a conversion requirement under this subsection is unreasonable, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the availability of compensation or tax relief for any capital loss incurred through such conversion requirement.

(b) **USE OF COAL.**—

(1) Except as provided in paragraph (2), any electric powerplant (A) which is prohibited from using petroleum products or natural gas by reason of an order issued under subsection (a), or which has voluntarily begun conversion to the use of coal during the period 90 days prior to the effective date of this Act and (B) which converts to the use of coal, shall not, until January 1, 1980, be prohibited from burning coal which is available to such source by any fuel or emission limitation, if the Administrator of the Environmental Protection Agency approves, after notice to interested persons and opportunity for presentation of views (including oral presentation), a plan submitted by the person who operates such plant. A plan submitted under the preceding sentence shall be approved only if it provides (A) that such use of control technology as may be necessary to enable such plant to come into compliance with national ambient air quality standards to which the suspension applied, as expeditiously as practicable; (B) for a schedule described in section 119(a)(2)(A)(iii) of the Clean Air Act (excluding section 119(a)(2)(B)(i)); and (C) that such plan will, during the period beginning on the effective date of the approval of the plan and ending at the time such plant complies with such stationary source of fuel or emission limitation, comply with interim requirements which the Administrator of the Environmental Protection Agency shall prescribe to assure that such source will not materially contribute to a significant risk to public health. Such Administrator shall approve any such plan before May 15, 1974, or if later 60 days after such plan is submitted.

(2) Nothing in paragraph (1) shall prohibit the Administrator of the Environmental Protection Agency or a State or local agency, to the extent practicable after notice to interested persons and opportunity for presentation of views (including oral presentations), (A) from prohibiting the use of coal by such a source to which paragraph (1) applies if such Administrator or any such agency determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; or (B) from requiring such source to use a particular grade of coal of any particular type, grade, or pollution characteristic, if such coal is available to such source.

(3) For purposes of this subsection, the term "fuel or emission limitation" means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation (including the Clean Air Act) and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels).

(c) **COAL ALLOCATION AUTHORITY.**—The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objective specified in section 4(b) of the Emergency Petroleum Allocation Act of 1973 and of section 205 of this Act. Any rule prescribed under this subsection shall be deemed to be part of the regulation.

(d) **EXPIRATION.**—The authority under this section (other than subsection (b)) shall expire on May 15, 1975.

Sec. 107. REGULATED CARRIERS.

(a) **AGENCY AUTHORITY.**—The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of

enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) The Interstate Commerce Commission shall by expedited proceedings adopt appropriate rules under the Interstate Commerce Act which will contribute to conserving energy by eliminating discrimination against the shipment of recyclable materials in rate structures and other Commission practices.

(d) REPORTS.—Within sixty days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

- (1) the type of regulatory authority needed;
- (2) the reasons why such authority is needed;
- (3) the probable impact on fuel conservation of such authority;
- (4) the probable effect on the public convenience and necessity of such authority; and
- (5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

Sec. 108. DELEGATION OF AUTHORITY.

The Administrator may delegate all or any of his functions under this Act or the Emergency Petroleum Allocation Act of 1973 to any officer or employee of the Federal Energy Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation of regulations and energy conservation plans under this Act or the Emergency Petroleum Allocation Act of 1973 officers of a State, or to State or local boards of balanced composition reflecting the makeup of the community as a whole. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed, effective on the effective date of transfer of functions under such Act to the Administrator.

Sec. 109. ADMINISTRATION.

(a) ADMINISTRATION PROCEDURE.—

(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title except with respect to any rule or order pursuant to section 107 of this Act, section 205 (a), (b), (c), and (d) of this Act, or section 4(h) or 4(i) of the Emergency Petroleum Allocation Act of 1973, or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral

presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) JUDICIAL REVIEW.—Any interested person (including a State or political subdivision thereof) may obtain judicial review of any rule or order described in in subsection (a) (1) of this section in accordance with chapter 7 of title 5, United States Code. Review of a rule may be obtained in the Temporary Emergency Court of Appeals. Review of a rule or order shall be pursuant to the procedures of section 211 of the Economic Stabilization Act of 1970.

(c) LOCAL BOARDS.—

(1) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

Sec. 110. PROHIBITED ACTS.

It shall be unlawful—

(1) for any person, who is engaged in the business of marketing or distributing diesel fuel to trucks on bona fide cargo runs, to deny to such trucks full fill-ups of fuel, unless—

(A) there is in effect under this Act, the Emergency Petroleum Allocation Act of 1973, or any other Act an end-use allocation regulation which restricts such full fill-ups by such person to such trucks, or

(B) such person has no such fuel available for sale;

(2) to violate any order under section 106;

(3) to violate any rule under the first sentence of section 123; or

(4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117 of this Act.

Sec. 111. ENFORCEMENT.

(a) CRIMINAL PENALTY.—Whoever willfully violates any provision of section 110 shall be fined not more than \$5,000 for each violation.

(b) CIVIL PENALTY.—Whoever violates any provision of section 110 shall be subject to a civil penalty of not more than \$2,500 for each violation.

(c) INJUNCTIVE AND OTHER RELIEF.—Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any provision of section 110, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with such provision of section 110.

(d) PRIVATE RELIEF.—Any person suffering legal wrong because of any act or practice arising out of any violation of section 110 may bring an action in a

district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

Sec. 112. GRANTS TO STATES.

There are authorized to be appropriated such sums as may be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 110 of this Act. The Administrator shall make grants upon such terms and conditions as he may prescribe.

Sec. 113. FAIR MARKETING OF PETROLEUM PRODUCTS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section :

"FAIR MARKETING OF REFINED PETROLEUM PRODUCTS

"Sec. 8. (a) As used in this section :

"(1) The term 'commerce' means commerce between a State and a point outside such State.

"(2) The term 'marketing agreement' means that portion of an agreement or contract between a refiner and a branded independent marketer (A) which authorizes such marketer to market or distribute refined petroleum products using a trademark trade name, service mark, or other identifying symbol or name owned by such refiner, or (B) which authorizes such marketer to occupy premises owned, leased, or in any way controlled by a refiner, for the purposes of marketing or distributing refined petroleum products, or (C) which authorizes both.

"(3) The term 'person' means an individual or a corporation, partnership, joint-stock company, business trust, association, or any organized group of individuals whether or not incorporated.

"(4) The term 'refiner' includes any person (other than a branded independent marketer) who controls, is controlled by, or under common control with, a refiner. For purposes of the preceding sentence, the term 'control' does not include control solely by means of a supply contract.

"(5) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any organized territory or possession of the United States.

"(6) The term 'to terminate' includes to cancel or to fail to renew.

"(b) The following conduct is prohibited :

"(1) A refiner shall not terminate a marketing agreement unless he furnishes prior notification pursuant to this paragraph to each branded independent marketer to which such termination applies. Such notification shall be in writing and shall be accomplished by certified mail to each such marketer; shall be furnished not less than ninety days prior to the date on which such agreement will be terminated; and shall contain a statement of intention to terminate together with the reasons therefor, the date on which such termination shall take effect, and a statement of any remedy or remedies available to such marketer under this section, together with a summary of the provisions of this section.

"(2) A refiner shall not terminate a marketing agreement unless the branded independent marketer to which such termination applies failed to comply substantially with one or more essential and reasonable requirements of such marketing agreement or failed to act in good faith in carrying out the terms of such agreement; except that such refiner may terminate such agreement if he does not, during the 3-year period which begins on the date of such termination, engage in the sale of any refined petroleum product in commerce for sale other than for resale in any relevant market within such branded independent marketer operation.

"(c) (1) A branded independent marketer may maintain a suit under this section against a refiner who engages in conduct prohibited by subsection (b), whose actions affect commerce, and whose products he sells or has sold, directly or indirectly, under a marketing agreement.

"(2) The court may award to any branded independent marketer actual damages resulting from the termination of a marketing agreement together with such equitable relief (including interim equitable relief and punitive damages) as may be appropriate, including declaratory judgments and mandatory or prohibitive injunctive relief. The court may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

"(d) A suit under this section may be brought in the district court of the United States for any district in which the plaintiff resides, is found, or is doing business, without regard to the amount of controversy. No suit shall be maintained under this section unless commenced within four years after the date of the termination of such marketing agreement."

Sec. 114. VOLUNTARY ENERGY CONSERVATION AGREEMENTS

(a) Within fifteen days of the date of enactment of this Act, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which retail or service establishments may develop and implement voluntary agreements to promote energy conservation by limiting the operating hours of such retail or service establishments, adjusting retail store delivery schedules, and by taking such other actions as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, by rule determines to be necessary and appropriate to accomplish the objectives of this Act.

(b) The standards and procedures under subsection (a) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(i) A written copy of any agreement under this section shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection;

(ii) Meetings held to develop and implement an agreement under this section shall permit attendance by interested persons and shall be preceded by timely notice to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(iii) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings; and

(iv) A written summary of the proceedings of any such meeting together with copies of any written data, views, and arguments presented by interested persons shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection.

(c) Actions taken in good faith, in accordance with this section and rules promulgated hereunder, to develop and implement a voluntary energy conservation agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act, or similar State statutes.

(d) Any voluntary agreement entered into pursuant to this section shall be submitted in writing to the Attorney General 10 days before being implemented. The Attorney General, at any time, on his motion or upon the request of any interested person, may disapprove any such voluntary agreement and hereby withdraw prospectively the immunity conferred by subsection (c).

(e) As used in this section—

(i) The term "voluntary agreement" shall not pertain to, or govern the conduct of, activities relating to the marketing and distribution of any petroleum product.

(ii) The term "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or both) is not for resale and is recognized as retail sales or services in the particular industry, as determined by the Attorney General.

(f) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President at least once every six months a report on the impact on competition and on small business of the voluntary agreements authorized by this section.

(g) The authority granted by this section (including any immunity under subsection (c)) shall terminate on May 15, 1975.

Sec. 115. PROHIBITIONS ON UNREASONABLE ALLOCATION REGULATIONS.

Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users: *Provided*, That, with respect to allocation of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged

in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in foreign commerce.

Sec. 116. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpoolings systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of \$1,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles: *Provided:* That, the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1975 may not exceed 30 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year; and the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1976 may not exceed 10 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year. For purposes of this subsection, the term "fuel inefficient passenger motor vehicle" means an automobile which does not achieve at least seventeen miles per gallon as certified by the Department of Transportation; for the fiscal year 1976, and thereafter, the term "fuel inefficient passenger motor vehicle" means an automobile which does not achieve at least twenty miles per gallon, as certified by the Department of Transportation. *And provided further,* That, the aggregate number of fuel inefficient passenger motor vehicles purchased by or for the Legislative and Judicial Branches of the Federal Government and for all Departments in the Execu-

tive Branch may not exceed 30 per centum of the aggregate number of passenger motor vehicles purchased by each such Branch in such year; and the aggregate number of fuel inefficient passenger motor vehicles purchased by each such Branch in fiscal year 1976 may not exceed 10 per centum of the aggregate number of passenger motor vehicles by each such Branch in each such year. For purposes of this subsection the term, fuel inefficient passenger motor vehicle for fiscal year 1975 means an automobile which does not achieve at least seventeen miles per gallon as certified by the Department of Transportation; for fiscal year 1976, and thereafter, the term fuel inefficient passenger motor vehicle means an automobile which does not achieve at least twenty miles per gallon, as certified by the Department of Transportation.

(i) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or those persons whose assignments necessitate transportation by limousines, because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

Sec. 117. PROHIBITION ON PRICE GOUGING.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 103 of this Act) is further amended to prevent price gouging with respect to sales of crude oil, residual fuel oil, refined petroleum products, and coal, including sales of diesel fuel to motor common carriers by adding at the end thereof the following new subsection:

"(m) (1) The President shall exercise his authority under this Act and under the Economic Stabilization Act of 1970 so as to specify prices for sales of crude oil, refined petroleum products, residual fuel oil, produced in or imported into the United States, which avoid windfall profits by sellers.

"(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, refined petroleum products, residual fuel oil, permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the 'Board') for a determination under subparagraph (A) or (B) or paragraph (3).

"(3) (A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of crude oil, any refined petroleum product, residual fuel oil, or coal, permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such price permits windfall profits to be so received, it shall specify a price for the sales of such item which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified for sales of such item (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

"(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of crude oil, any refined petroleum product, residual fuel oil, permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller the items the price of which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order, for the purpose of refunding such profits, the seller to reduce the price for future sales of the item the price of which

resulted in windfall profits, to create a fund against which previous purchases of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

"(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

"(4) (A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

"(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

"(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

"(6) For the purposes of subparagraph (B) of paragraph (3), the term 'windfall profits' means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of crude oil, any refined petroleum product, or residual fuel oil, determined by the Board to be in excess of the lesser of—

"(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

(i) the reasonableness of its costs and profits with particular regard to volume of production;

(ii) the net worth, with particular regard to the amount and source of capital employed;

"(iii) the extent of risk assumed;

"(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

"(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

"(B) the greater of—

"(i) the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971; or

"(ii) the average profit obtained by the particular seller for the particular item during such calendar years.

"(7) Except as provided in paragraph (4), for the purposes of this subsection, the term 'windfall profits' means profit in excess of the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971.

"(8) For the purposes of this subsection, the term 'interested person' includes the United States, any State, and the District of Columbia.

"(9) This subsection shall not apply to the first sale of crude oil described in subsection (e)(2) of this section (relating to stripper wells)."

(b) Notwithstanding any other provision of law, administrative proceedings before the Board under section — of the Emergency Petroleum Allocation Act of 1973 shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceeding shall be reviewed in accordance with chapter 7 of such title.

"(9) Any action or proceeding under subsections (3)(A) and (B) of this section to determine windfall profits or to recover windfall profits under this Act must be brought within one year after the expiration of this "Emergency Energy Act" or any extension thereof. Further, it is expressly provided that windfall profits as defined in this section refer only to profits earned during the period beginning with the enactment of this Act and ending on the date of the expiration of this Act, or any extension thereof."

Sec. 118. IMPORTATION OF LIQUIFIED NATURAL GAS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"SEC. 9. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-

by-shipment basis the importation of liquified natural gas from a foreign country: *Provided, however*, That the authority to act under this section shall not permit the importation of liquified natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

Sec. 119. DEVELOPMENT OF ADDITIONAL ELECTRIC POWER RESOURCES.

Not later than ninety days after the date of enactment for this Act, the President shall prepare and submit to Congress a plan for the development of the hydroelectric power, solar energy, and geothermal resources of the United States by Federal and non-Federal interests. Such a plan shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power, solar energy, and geothermal resources, including tidal power and pumped storage.

Sec. 120. ANTITRUST PROVISION.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' means—

"(1) the Act entitles 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committee shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular fulltime Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

"(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552(b)(1) and (b)(3) of Title 5, United States Code.

"(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

"(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of Title 5, United States Code. They shall provide, among other things, that—

"(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular fulltime Federal employee.

"(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

"(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

"(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement, or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b) (1) and (b) (3) of title 5, United States Code.

"(f) The Federal Trade Commission may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference, or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference, or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

"(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out our voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

"(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

"(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

"(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

"(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records at reasonable times and upon reasonable notice.

"(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to 'the purposes of this Act' or like terms, the reference shall be understood to be this Act.

"(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a

voluntary agreement by persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product that—

“(1) Such action was—

“(A) authorized and approved pursuant to this section, and

“(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

“(2) Such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

“(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

“(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

“(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

“(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

“(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on December 31, 1974.

“(o) The exercise of the authority provided in section 107 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.”

Sec. 121. COMPREHENSIVE REVIEW OF EXPORT AND FOREIGN INVESTMENT POLICIES.

The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation and shall be submitted to Congress within ninety days after the date of enactment of this Act.

Sec. 122. EMPLOYMENT IMPACT AND WORKER ASSISTANCE.

(a) Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such employment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual's becomes eligible for such

assistance. Such assistance shall not exceed the maximum weekly amount under the employment compensation program of the State in which the employment loss occurred.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(d) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

Sec. 123. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided*, That, the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. In the administration of such restrictions, the Administrator may use existing statutory authorities and regulations including, but not limited to, the Export Administration Act of 1969. Rules under this section shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

Sec. 124. PROHIBITION OF PETROLEUM EXPORTS FOR MILITARY OPERATIONS IN INDOCHINA.

In the exercise of his jurisdiction under the preceding section, and in order to conserve petroleum products for use in the United States, the Administrator shall prohibit the exportation of petroleum products for use, directly or indirectly, in military operations in South Vietnam, Cambodia, or Laos.

Sec. 125. REPORT AND TERMINATION DATE.

(a) No later than September 1, 1974, the President shall submit to Congress an interim report on the implementation of this Act, together with such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

(b) Notwithstanding any other provisions of title I of this Act or of the Emergency Petroleum Allocation Act of 1973, any authorities granted in title I of this Act or by the Emergency Petroleum Allocation Act of 1973 which, but for this section would expire on December 31, 1974, one year after the date of enactment of this Act, or on February 28, 1975, shall expire on May 15, 1975.

Sec. 126. REPORT ON NATIONAL ENERGY RESOURCES.

(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs by product; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person

to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the purposes of section 1905 of Title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

Sec. 127. DEVELOPMENT OF PROCESSES FOR THE CONVERSION OF COAL TO CRUDE OIL AND OTHER LIQUID AND GASEOUS HYDROCARBONS.

The Administrator shall prepare and submit to Congress not later than 90 days after the date of enactment of this Act a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

Sec. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"TEMPORARY AUTHORITY TO SUSPEND CERTAIN STATIONARY SOURCE EMISSION AND FUEL LIMITATIONS

"Sec. 119. (a) (1) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before May 15, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under subsection (b) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2) (B) and (2) (C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a) (2) of this Act.

"(2) (A) After public notice and public hearing, the Administrator may, for any period beginning after May 15, 1974, and ending not later than June 30, 1979, temporarily suspend any stationary source fuel or emission limitation as it applies to any person if the Administrator finds—

"(i) that such person will be unable to comply with such limitation solely because of the unavailability of types and amounts of fuels,

"(ii) that such suspension (in conjunction with interim requirements under subsection (b)) will not, after the applicable implementation plan deadline, result in or contribute to a level of air pollutants which is greater than that specified in a national primary ambient air quality standard, and

"(iii) that such person has been placed on a schedule which provides for the use of methods which the Administrator determines will assure continuing compliance with a national primary ambient air quality standard as soon as prac-

licable (but no later than June 30, 1979), which schedule shall include increments of progress toward compliance with such standard by such date.

"(B) (i) Any schedule under subparagraph (A) (iii) shall include, if necessary to meet a national primary air quality standard, a date by which a contractual obligation shall be entered into for an emission reduction system which has been determined by the Administrator to be adequately demonstrated (except that in the case of a person wishing to construct and install such system himself as soon as practicable, but not later than June 30, 1979, the Administrator may approve detailed plans and specifications and increments of progress for construction and installation of such a system). Before the earliest date on which a person is required to take any action under the preceding sentence (but not later than May 15, 1977) any source may elect to have the preceding sentence not apply to it; but if such election is made, no suspension under this section may apply to such source after May 15, 1977.

"(ii) For purposes of subparagraph (A) (ii) and of subsection (b), the term 'applicable implementation plan deadline' means the date on which (as of the date of enactment of the Energy Emergency Act) a national primary ambient air quality standard is required by an applicable implementation plan to be attained in an air quality control region.

"(C) Any person may obtain judicial review of a grant or denial of a suspension under this paragraph and of any interim requirement on which such suspension is conditioned under subsection (b) by filing a petition with the United States district court for any judicial district in which is located any stationary source to which the action of the Administrator applies. The second and third sentences of clause (ii), and clauses (iii) and (iv) of section 206(b)(2)(B) of this Act shall apply to judicial review under this paragraph. No proceeding under section 304(a)(2) may be commenced with respect to any action or failure to act under this paragraph.

"(3) In issuing any suspension under this subsection, the Administrator is authorized to act on his own motion without application by any source or State.

"(b) Any suspension under subsection (a) shall be conditioned upon compliance with such interim requirements as the Administrator determines necessary for minimizing the threat to public health which may exist prior to the applicable implementation plan deadline and for assuring maintenance of the national primary ambient air quality standards during any portion of such suspension which may be authorized after the applicable implementation plan deadline. Such interim requirements and section 110 shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national primary ambient air quality standards during the period of the suspension. Such interim requirements shall include, but not be limited to, (A) a requirement that the source receiving the suspension comply with such monitoring and reporting requirements as the Administrator determines may be necessary to determine the effect on health or air quality of such suspension, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels or emission reduction systems which would enable compliance with the suspended fuel or emission limitations are in fact available to that person (as determined by the Administrator). Such fuel shall not be required to be used if the Administrator determines that the costs of changes necessary to use such fuel during such period are unreasonable.

"(c) The Administrator may by rule establish priorities under which manufacturers of emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution.

"(d) The Administrator shall study, and report to Congress not later than March 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and allocation and end-use allocation programs;

"(2) availability of scrubber technology (including projections respecting the time, cost, and number of units available) and the effects that scrubbers would have on the total environment and on supplies of fuel and electricity;

"(3) number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of scrubber technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities, analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of scrubber technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring variance-receiving sources to monitor impact of variances on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (b) or a compliance schedule under subsection (a) (2) (A) (iii), including any requirement under subsection (a) (2) (B) (i)). No State or political subdivision may require any person to use an emission reduction system for which priorities have been established under subsection (c) except in accordance with such priorities.

"(f) (1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a) to violate any requirement of which the suspension is conditioned pursuant to subsection (b).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for any person to fail to comply with a schedule of compliance under subsection (a) (2) (A) (iii), including any requirement under subsection (a) (2) (B) (i).

"(g) For purposes of this section:

"(1) The term 'stationary source' fuel or 'emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on or specification of the use of any fuel or any type or grade or pollution characteristic.

"(2) the term 'stationary source' has the same meaning as such term has under section 111(a) (3).

"(h) Beginning 60 days after the enactment of this section, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) Up-to-date findings on the emission reduction systems determined to be adequately demonstrated for the purposes of subsection (a) (2) (B).

"(2) A concise summary of progress reports which are required to be filed by any person operating under a suspension pursuant to subsection (a) (2). Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator as a condition for receiving the suspension.

"(3) Up-to-date findings on the impact of the suspensions granted upon—

"(A) applicable implementation plans, and

"(B) ambient air quality in areas where any person has received a suspension under subsection (a) (2) of this section.

"(i) (1) In order to conserve available supplies of liquid and gaseous fuels, each coal-fired steam electric generating station which is eligible for such an exemption as provided in paragraph (2) is hereby exempted from all applicable stationary source fuel or emission limitations, unless the Administrator deter-

mines that the cost of compliance with any such limitation is reasonable in light of the projected useful life of the station, the availability of rate base increases to pay for such costs, and the risk to public health and the environment which may be associated with exemption from such limitation.

"(2) The exemption provided for in paragraph (i) shall only apply to coal-fired steam electric generating stations (A) which are to be taken out of service permanently by December 31, 1980, due to the age and condition of the station, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the utility operating such station, (B) for which a certification to that effect has been annually filed with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the FPC has determined that the certification has been made in good faith and the plan to cease operations by December 31, 1980, is likely to be carried out as planned in light of existing and prospective power supply requirements.

"(3) The Administrator of EPA shall be authorized to prescribe interim requirements for any source exempted from any stationary source fuel or emission limitation under this subsection so long as such requirements impose only reasonable costs in light of the criteria prescribed in paragraph (i))."

Sec. 202. IMPLEMENTATION PLAN REVISIONS.

(a) REVISIONS TO REFLECT SUSPENSIONS.—Section 110(a) of the Clean Air Act is amended—

(1) in paragraph (2) (B) by inserting before the semicolon at the end thereof ", and provision for energy conservation measures"; and

(2) in paragraph (3), by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard which the plan implements within the deadlines established under paragraph (2) (A) of this subsection. In making such determination the Administrator shall consider any current or anticipated suspensions under section 119, any action under section 106(b), and any projected shortages of fuels or emission reduction systems. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan (or portion thereof) not later than November 1, 1974."

(b) AMBIENT AIR STANDARDS.—Section 110 of the Clean Air Act, as amended (41 U.S.C. 1857(h) (1) and (2)), is amended to read as follows:

"(h) (1) The Administrator shall, upon application by the Governor for any air quality control region for which transportation controls have been imposed in order to attain and maintain the national primary ambient air quality standards by June 1, 1977, extend for two years the date required by any applicable implementation plan for attainment and maintenance of such standards, if the transportation controls for such region require a 20 percent (or greater) reduction in vehicle miles traveled by June 1, 1977, or if he otherwise finds that such controls are impracticable within such time.

(2) The Administrator may, upon application by the Governor for any such region, further extend the date for attainment and maintenance of such standard if he finds that imposition of additional transportation control requirements is impracticable within such time. In no event, however, shall the Administrator permit any extension (A) which allows for attainment of the primary standard less expeditiously than practicable, or (B) which allows a less than 10 percent annual improvement in air quality toward the achievement of such standard so that protection of the public health may be assured by January 1, 1985."

(c) LIMITATION ON PARKING SURCHARGES, MANAGEMENT OF PARKING SUPPLY, AND PREFERENTIAL BUS/CARPOOL LANE REGULATIONS.—Subsection (c) of section 110 of the Clean Air Act, as amended (42 U.S.C. 1857 C-5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2) (A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 6 months after the enactment of this paragraph on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations in order to achieve national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge of parking supply, or preferential bus/carpool lane regulation may be promulgated by the Administrator under paragraph (1) of this subsection as a part of an implementation plan. All parking surcharge, management of parking supply, and preferential bus/carpool lane regulations previously promulgated by the Administrator shall be null and void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges, management of parking supply regulations, and preferential bus/carpool lanes if they are adopted and submitted by a State as part of an implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge, management of parking supply, or preferential bus/carpool lane regulation.

"(C) For purposes of this paragraph, the terms 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' and the term 'preferential bus/carpool lane' shall include those general activities covered by but not limited to regulations numbered 52.251 and 52.261 through 52.264 as set forth in vol. 38 of the Federal Register Number 217."

Sec. 203. MOTOR VEHICLES EMISSIONS.

(a) Revision of Standards.—

(1) Section 202(b) (1) of the Clean Air Act is amended—

(A) by striking out in subparagraph (a) "1975" and inserting in lieu thereof "1978";

(B) by striking out "during or after model year '1976' and all that follows in subparagraph (b) and inserting in lieu thereof "during model year 1976 shall contain standards which limit emissions to a maximum of 3.1 grams per vehicle mile of oxides of nitrogen. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1977 shall contain standards which limit emissions to a maximum of 2.0 grams per vehicle mile of oxides of nitrogen.", and

(C) by adding at the end of such paragraph the following new subparagraph:

"(C) Compliance with the regulations prescribed pursuant to this section for model years 1975, 1976, and 1977, shall be measured by certification test procedures prescribed by the Administrator for model year 1975. The regulation for model years 1975, 1976, and 1977 prescribed pursuant to subsection (a) (for carbon monoxide and hydrocarbons) shall impose the same emission standards as are in effect as of December 1, 1973, for model year 1975."

(2) Section 202(b) (5) of the Clean Air Act is repealed.

(b) Extension of Implementation Plan Deadlines.—Section 110 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this Act, the Administrator may, within the period by which (under subsection (a) (2) (A) (i)) an applicable implementation plan must provide for the attainment in a State of a national primary ambient air quality standard (as such period may be extended under subsection (e)), extend such period for not more than two additional years if he determines that such primary standard cannot be attained in such State within such period solely by reason of the amendments made by section 203(a) of the National Energy Emergency Act."

Sec. 204. CONFORMING AMENDMENTS.

(a) (1) Section 113(a) (3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to certain requirements during suspensions and priorities)."

(2) Section 113(b) (3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c) (1) (C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 113 of such Act is amended by inserting at the end thereof the following new subsection:

"(d) For the purpose of this section, the violation of any provision of an approved plan under section 106(b) of the Energy Emergency Act shall be deemed a violation of a 'requirement of an applicable implementation plan during any period of federally assumed enforcement'."

(5) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(f)" before "209".

Sec. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) (1) For the period beginning May 15, 1974, the Administrator of the Environmental Protection Agency may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5 United States Code, and consultation with the Federal Energy Administrator, issue exchange orders to any person or persons requiring the exchange of any fuel subject to any allocation program under title I of this Act or such Act of 1973. The purpose of such exchange orders shall be to avoid or minimize the adverse impact of any such allocation program on public health in those areas of the country designated by the Administrator of the Environmental Protection Agency under subsection (a). Such Administrator may issue an order under this subsection only if he finds that (A) substantial emission reductions will be afforded for one or more emission sources in areas designated under subsection (a), and (B) the costs and fuel availability impact of such order will not be excessive.

(2) Violation of any exchange order issued under paragraph (1) of this subsection shall be a prohibited act and shall be subject to enforcement action and sanctions in the same extent as a violation of any requirement of an energy conservation and rationing program under title I of this Act.

(c) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of \$2,000,000 is authorized to be appropriated for such a study.

(d) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2) (C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a 6-month period (other than action taken pursuant to subsection (e) of this section), or any action to extend an action taken under

this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(e) Notwithstanding subsection (d) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York, and for any other facilities for the transmission of electric energy between a foreign country and the United States which the Federal Power Commission finds will be subject to adequate environmental review conducted by a State agency pursuant to State law.

Sec. 206. ENERGY CONSERVATION STUDY.

(a) The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentive for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, in-

cluding reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems:

“(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

Sec. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

Sec. 208. RECOMMENDATIONS FOR SITING OF ENERGY FACILITIES.

The President shall, within 90 days after the date of enactment of this Act, recommend to the Congress actions to be taken by the executive branch and the Congress regarding the problem of the siting of all types of energy producing facilities.

Sec. 209. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

“FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

“Sec. 213. (a) The Administrator shall conduct a study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator shall consult with the Secretary of Transportation, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined by the Administrator for each manufacturer. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

Sec. 210. FUEL ALLOCATIONS.

Notwithstanding any other provision of law or regulation, any project or enterprise authorized by law or regulations of the Federal Government, regardless of time initiated shall be allowed the necessary fuel for all its operations under any rules formulated for such purposes.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to assure, through energy conservation, end-use allocation of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11450) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2589, ENERGY EMERGENCY ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the House insist upon its amendment to the bill S. 2589 and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and appoints the following conferees: Messrs. Staggers, Macdonald, Moss, Rogers, Broyhill of North Carolina, Brown of Ohio, and Hastings.

HOUSE CONSIDERATION OF S. 921, WILD AND SCENIC RIVERS ACT AND AMENDMENTS, DECEMBER 21, 1973

PROVIDING FOR AGREEING TO SENATE AMENDMENT TO HOUSE AMENDMENT WITH AN AMENDMENT TO AMEND S. 921, WILD AND SCENIC RIVERS ACT

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and agree to the House resolution (H. Res. 759) to take from the Speaker's table the Senate bill S. 921, to amend the Wild and Scenic Rivers Act, with a Senate amendment to the House amendment thereto, and agree to the Senate amendment to the House amendment with an amendment.

The Clerk read as follows:

H. RES. 759

Resolved, That immediately upon the adoption of this resolution the bill S. 921, with the Senate amendment to the House amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the House amendment be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the text of the bill H.R. 12128.

[The text of H.R. 12128 follows:]

TITLE I—ENERGY EMERGENCY AUTHORITIES

Sec. 100. SHORT TITLE.

Titles I, II, and III of this Act may be cited as the "Energy Emergency Act".

Sec. 101. FINDINGS AND PURPOSES.

(a) (1) The Congress hereby determines that—

(A) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(B) such shortages have created or will create severe economic dislocations and hardships;

(C) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute an energy emergency which can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(D) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(E) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing energy emergency measures lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act; and

(F) the protection and fostering of competition and the prevention of anti-competitive practices and effects are vital during the energy emergency.

(2) On the basis of the determinations specified in subparagraphs (A) through (P) of paragraph (1) of this subsection, the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

(b) The purposes of this Act are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

Sec. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Emergency Administration.

Sec. 103. FEDERAL ENERGY EMERGENCY ADMINISTRATION.

(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law, a Federal Energy Emergency Administration which shall be temporary and shall be headed by a Federal Energy Emergency Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filled in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under sections 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

Sec. 104. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereto the following new subsection:

"(h) (1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidence of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) The rule under this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of section 4(b) of this Act and of the Energy Emergency Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 122 of the Energy Emergency Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax."

Sec. 105. ENERGY CONSERVATION PLANS.

(a)(1)(A) Pursuant to the provisions of this section, the Administrator is authorized to promulgate by regulation one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption and which are authorized by this Act.

(B) No energy conservation plan promulgated by regulation under this section may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided for in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to the plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, if it has significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b). Any amendment which does not have significant substantive effect and any rescission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b)(3), provision of an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than April 1, 1974.

(b)(1) For purposes of this subsection, the term "energy conservation plan" means a plan promulgated by regulation proposed under subsection (a) of this section or an amendment thereto which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3)(A) If an energy conservation plan is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, such plan shall take effect on the date provided in the plan; but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it, passes a resolution stating in substance that such House does not favor such plan, such plan shall cease to be effective on the date of passage of such resolution.

(B) If an energy conservation plan is transmitted to the Congress and provides for an effective date on or after March 1, 1974 and before April 1, 1974, such plan shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(C) An energy conservation plan proposed to be made effective on or after April 1, 1974, shall take effect only if approved by Act of Congress.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise is effective.

(c) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For the purpose of this subsection "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: That the _____ does not favor the energy conservation plan numbered _____ transmitted to Congress by the Administrator of the Federal Energy Emergency Administration on _____, 19—. The first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution with respect to an energy conservation plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion, to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy conservation plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy conservation plan, and motions to proceed to the consideration of other business shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy conservation plan shall be decided without debate.

(d) (1) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions including but not limited to the preparation of an analysis of the effect of such actions on—

- (A) the fiscal integrity of State and local government;
- (B) vital industrial sectors of the economy;
- (C) employment, by industrial and trade sector, as well as on a national, regional State, and local basis;
- (D) the economic vitality of regional, State, and local areas;
- (E) the availability and price of consumer goods and services;
- (F) the gross national product;
- (G) competition in all sectors of industry; and
- (H) small business.

(2) The Administrator shall develop analyses of the economic impact of any energy conservation plan on States or significant sectors thereof, considering the impact on energy resources as fuel and as feedstock for industry.

(3) Such analysis shall, wherever possible, be made explicit and, to the extent practicable, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analysis, and all Federal agencies shall cooperate with the Administrator in preparing such analyses except that the Administration's actions pursuant to this subsection shall not create any right of review or cause of action except as otherwise exist under other provisions of law.

(4) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

(e) Any energy conservation plan which the Administrator submits to the Congress pursuant to subsection (b) of this section shall include findings of fact and a specific statement explaining the rationale for each provision contained in such plan.

Sec. 106. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Admin-

istrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

Sec. 107. MATERIALS ALLOCATION.

(a) The Administrator shall, within 30 days after the date of enactment of this Act propose (in the nature of a proposed rule affording an opportunity for the presentation of views) and publish (and may from time to time amend) a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. At such time as he finds that it is necessary to put all or part of such plan into effect, he shall transmit such plan or portion thereof to each House of Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105 and to which section 105(b)(3)(B) applies except that such plan may be submitted at any time after the date of enactment of this Act and before May 15, 1975).

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States, and for required transportation related thereto,"

Sec. 108. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(1) require, by order or rule, the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for period of ninety days or more without excessive risk of losses in recovery;

(3) require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10 of the United States Code.

Sec. 109. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 as amended by section 104 of this Act is amended by adding at the end of such section the following new subsection:

"(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based

on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act. Adjustments for such purposes shall take effect no later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."

(b) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

Sec. 110. PROHIBITION ON WINDFALL PROFITS—PRICE GOUGING.

(a) (1) The President shall exercise his authority under the Emergency Petroleum Allocation Act of 1973 and under the Economic Stabilization Act of 1970 so as to specify prices for sales of petroleum products produced in or imported into the United States, which avoid windfall profits by sellers.

(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of petroleum products permits a seller thereof any windfall profits, may petition the Attorney General for a determination under subparagraph (A) or (B) of paragraph (3).

(3) (A) Upon petition of any interested person, the Attorney General may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1) of petroleum product permits sellers thereof to receive windfall profits. Upon a final determination of the Attorney General that such price permits windfall profits to be so received, it shall specify a price for such sales which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified (under any of the authorities in paragraph (1)) except with the approval of the Attorney General.

(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Attorney General may determine whether the price charged by a particular seller of any petroleum product permitted such seller to receive windfall profits. If, on the basis of such petition, the Attorney General has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Attorney General under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Attorney General that such price permitted such seller to receive windfall profits, the Attorney General shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller at prices which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Attorney General shall order the sellers for the purpose of refunding such profits, to reduce the price for future sales, to create a fund against which previous purchasers of such item may file a claim under rules which shall be prescribed by the Attorney General, or to take such other action as the Attorney General may deem appropriate.

(C) Any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(4) (A) The Attorney General may provide, in its discretion under regulations prescribed by the Attorney General, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

(B) The Attorney General may make such rules, regulations, and order as it deems necessary or appropriate to carry out its functions under this subsection.

(6) For the purposes of this section, the term "windfall profits" means profits which are unreasonable or excessive, taking into consideration normal profits.

(7) For the purposes of this subsection, the term "interested person" includes the United States, any State, and the District of Columbia.

(8) This subsection shall not apply to the first sale of crude oil described in section 4(e)(2) of Emergency Petroleum Allocation Act of 1973 (relating to stripper wells).

(9) This section shall take effect on January 1, 1975, and shall apply to profits attributable to any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, residual fuel oil, and refined petroleum products in effect after December 31, 1973.

(b) Notwithstanding any other provision of law, administrative proceedings before the Attorney General under this section shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceedings shall be reviewed in accordance with chapter 7 of such title.

Sec. 111. PROTECTION OF FRANCHISED DEALERS.

(a) As used in this section;

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owner, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(5) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraph (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits

under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

Sec. 112. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users: *Provided*, That with respect to allocations of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in foreign commerce.

(b) To the maximum extent practicable any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

Sec. 113. REGULATED CARRIERS.

(a) The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

- (1) the type of regulatory authority needed;
- (2) the reasons why such authority is needed;
- (3) the probable impact on fuel conservation of such authority;
- (4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

Sec. 114. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.) as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. 1), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552(b) (1) and (b) (3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee.

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying subject to provisions of section 552(b) (1) and (b) (3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meetings, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, or any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and
 (B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal or proceeding arising from, any acts or practices which occurred:

(1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on May 15, 1975.

(o) The exercise of the authority provided in section 113 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

Sec. 115. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate; *Provided*, That, the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. The Secretary of Commerce, pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2) (A) of such Act), may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this Act and section 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973: *Provided*, That in the event that the Administrator certifies to the Secretary of Commerce that export restrictions of products enumerated in this section are necessary to carry out the purpose of this Act, the Secretary of Commerce shall impose such export restrictions. Rules under this section by the Administrator and actions by the Secretary of Commerce under the Export Administration Act of 1969 shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

Sec. 116. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President shall make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such

assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

Sec. 117. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of \$5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(i) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

Sec. 118. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a) (1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title (except with respect to any rule or order pursuant to sections 108 and 113 of this Act, section 205 (a), (b), and (c), of this Act, or section 4(h) of the Emergency Petroleum Allocation Act of 1973) or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment of the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, publication of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable for considering such requests for action under this paragraph.

(5) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this Act or the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

(b) (1) Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for

review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 122 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act. If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 889 of title 28, United States Code. Cases or controversies arising under any rule or order of any officer of a State or political subdivision thereof or a State or local board may be heard in either (1) any appropriate State court, and (2) without regard to the amount in controversy, the district courts of the United States.

(c) The Administrator may by rule prescribe procedures of State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

Sec. 119. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 113) or to violate any rule, regulation (including an energy conservation plan) or order issued pursuant to any such provision.

Sec. 120. ENFORCEMENT.

(a) Whoever violates any provision of section 119 shall be subject to a civil penalty of not more than \$2,500 for each violation.

(b) Whoever willfully violates any provision of section 119 shall be fined not more than \$5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than \$50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 119, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by section 119.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 119 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

Sec. 121. USE OF FEDERAL FACILITIES.

Whenever practicable, and for the purpose of facilitating the transportation and storage of fuel, agencies or departments of the United States are authorized, during the period beginning on the date of enactment of this Act and ending May 15, 1975, to enter into arrangements for the acquisition or use by domestic public entities and private industries of equipment or facilities which are surplus to the needs of such agency or department and appropriate to the transportation and storage of fuel, except that such arrangements may be made (1) only after the Administrator finds that such equipment or facilities are not available from private sources and (2) only on the basis of compensation for the acquisition or use of such equipment or facilities at fair market value prices or rentals.

Sec. 122. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the Federal Energy Emergency Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the make-up of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations as the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to section 103 of this Act.

(b) No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

Sec. 123. GRANTS TO STATES.

Any funds authorized to be appropriated under section 127(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 122 of this Act, or for the administration of appropriate State or local energy conservation programs which are the basis of an exemption made pursuant to section 105(a)(2) of this Act from a Federal energy conservation plan which has taken effect under section 105 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

Sec. 124. REPORTS ON NATIONAL ENERGY RESOURCES.

(a) For the purpose of providing to the Congress, and the Departments of Interior and Justice, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Attorney General or the Secretary of the Interior, or both, shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall * * * days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs byproduct; and (4) other data required by the Attorney General or the Secretary of the Interior for such purpose. Such regulation shall also require that such persons provide to the Attorney General or the Secretary of the Interior such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such

regulation shall be promulgated 30 days after such publication. The Attorney General or the Secretary of the Interior shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Attorney General or the Secretary of the Interior may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Attorney General or the Secretary of the Interior. The district courts of the United States are authorized, upon application of the Attorney General or the Secretary of the Interior, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Attorney General or the Secretary of the Interior, by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Emergency Administration for the purpose of carrying out this Act, (2) the Attorney General or the Secretary of the Interior or both when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

Sec. 125. INTRASTATE GAS.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

Sec. 126. EXPIRATION.

The authority under this title to prescribe any rule or order or take other action under this title, or to enforce any such rule or order, shall expire at midnight, May 15, 1975. (April 1, 1974, in the case of section 105), but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975 (April 1, 1974, in the case of section 105.)

Sec. 127. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Federal Energy Emergency Agency to carry out its functions under this Act and under other laws, and to make grants to States under section 123 \$75,000,000 for the fiscal year ending June 30, 1974, and \$75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 123, there are authorized to be appropriated \$50,000,000 for the fiscal year ending June 30, 1974, and \$75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 116, there is authorized to be appropriated \$500,000,000 for the fiscal year ending June 30, 1974.

Sec. 128. SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Sec. 129. PRICE AUTHORITY.

The President shall exercise his authority under the Economic Stabilization Act of 1970, as amended and the Emergency Petroleum Allocation Act of 1973 to specify prices for sales of crude oil, residual fuel oil or refined petroleum products in or imported into the United States which avoid windfall profits by

sellers. For purposes of this section, windfall profits shall be defined as those profits which are excessive or unreasonable, taking into consideration normal profit levels. This section shall be effective only until December 31, 1974.

Sec. 130. IMPORTATION OF LIQUEFIED NATURAL GAS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section :

"Sec. 8. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

Sec. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section :

ENERGY EMERGENCY AUTHORITY

"Sec. 119. (a) (1) (A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974, temporarily suspended any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirements on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2) (B) and (2) (C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a) (2) or 307(b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application of any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b) (1) of this section.

"(4) For purposes of this section :

"(A) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111 (b), or 112) or

contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristic thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a) (3).

"(b) (1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source (A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 106(a) of the Energy Emergency Act or which the Administrator determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (B) which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source.

"(2) (A) Paragraph (1) of this subsection shall apply to a source, only if the Administrator finds that omissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentations of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) for compliance by the means, and in accordance with a schedule which meets the requirements of subparagraph (B); and (ii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems necessary to permit such source to burn such coal or coal by-products and to achieve the degree of emission reduction required by the following sentence (which steps and systems must have received prior approval of the Administrator). Such regulations shall also require that the source achieve as expeditiously as practicable considering the type of coal to be used (but not later than January 1, 1979) the same degree of emission reduction as it was required to achieve by the applicable implementation plan in effect on the date of enactment of this section. Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a) (3).

"(C) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may prior to November 1, 1974, and shall thereafter, prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this paragraph.

"(3) For purposes of this subsection, the term "air pollution requirement" means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection, or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies, shall not be deemed to be a modification for purposes of section 111(a) (2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. No State or political subdivision may require any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than May 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction technology for non-solid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a) (1)).

"(f) (1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a) (1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a) (3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (i) (3).

"Beginning January 1, 1975, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i) (1) In order to reduce the likelihood of early phaseout of existing electric generating facilities during the energy emergency, any electric generating power plant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirements.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j) (1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Administration designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under the Energy Emergency Act or the Emergency Petroleum Allocation Act.

"(2) The Administrator of the Federal Energy Administration shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than 45 days after the date of the designation under paragraph (1), unless the Administrator of the Federal Energy Administration determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973."

Sec. 202. IMPLEMENTATION PLAN REVISIONS.

(a) Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) (1) For any air quality control region in which there has been a conversion to coal under section 119(b), the Administrator shall review the applicable implementation plan and no later than one year after the date of such conversion determine whether such plan must be revised in order to achieve the national primary standard which the plan implements. If the Administrator determines that any such plan is inadequate, he shall require that a plan revision be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan. If a plan provision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a public hearing, promulgate a revised plan (or portion thereof) not later than three months after the date required for approval or disapproval.

"(2) Any requirement for a plan revision under paragraph (1) and any plan requirement promulgated by the Administrator under such paragraph shall include reasonable and practicable measures to minimize the effect on the public health of any conversion to which section 119(b) applies."

(b) Subsection (c) of section 110 of the Clean Air Act (42 U.S.C. 1857 C-5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2) (A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than May 1, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any applicable implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) The Administrator is authorized to suspend until January 1, 1975, the effective date of applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

"(D) For purposes of this paragraph, the term 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations. The term 'preferential bus/carpool lane' shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses and/or carpools."

Sec. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model years 1975."

(b) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975

and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b)(5)(A) of such Act is amended to read as follows:

"(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b)(5)(B) of the Clean Air is repealed and the following subparagraphs redesignated accordingly.

Sec. 204. CONFORMING AMENDMENTS.

(a)(1) Section 113(a)(3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following ", or 119(f) (relating to priorities and certain other requirements)".

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(b), (c) and (e)," before "209".

Sec. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of \$3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one year period (other than action taken pur-

suant to subsection (d) of this section) or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act not withstanding any other provision of this Act.

(d) Notwithstanding subsection (c) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.

Sec. 206. ENERGY CONSERVATION STUDY.

(a) The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

Sec. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

Sec. 208. FUEL ECONOMY STUDY

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"Sec. 213. (a) (1) The Administrator and Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Public Works and Commerce of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for each manufacturer in accordance with test procedures established by the Administrator pursuant

to this Act. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

TITLE III—STUDIES AND REPORTS

Sec. 301. AGENCY STUDIES.

The following studies shall be conducted, with reports on their results submitted to the Congress:

(1) Within 30 days after the date of enactment of this Act:

(A) The Administrator of the Federal Energy Emergency Administration shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) All Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(D) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

THE SPEAKER. Is a second demanded?

TELLER VOTE

Mr. HOSMER. Mr. Speaker, under rule XXVIII, clause 2, I demand a second by a majority by tellers.

The SPEAKER. The gentleman from California, (Mr. Hosmer) demands a second, and the Chair appoints as tellers the gentleman from West Virginia (Mr. Staggers) and the gentleman from California (Mr. Hosmer).

PARLIAMENTARY INQUIRIES

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, my parliamentary inquiry is this: If this second fails, then this resolution cannot be considered; is that correct?

The SPEAKER. The Chair will state that the gentleman is correct.

Will the gentleman from West Virginia and the gentleman from California please take their places as tellers.

Mr. LONG of Maryland. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. LONG of Maryland. Mr. Speaker, could we have an explanation of just what we are voting on?

The SPEAKER. The Chair will state that this is a second that has been demanded, and tellers have been demanded on the second.

The Chair will further state that it takes a majority vote to consider the motion.

Mr. LONG of Maryland. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. LONG of Maryland. Mr. Speaker, my parliamentary inquiry is this: Do we know what the motion is?

The SPEAKER. The Chair will state that the gentleman from West Virginia has moved to suspend the rules, the motion is to suspend the rules.

Mr. WHITTEN. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WHITTEN. Mr. Speaker, is it in order to ask that the resolution be re-reported so that it can be understood?

The SPEAKER. The Chair will state that that can only be done by unanimous consent.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the motion be re-reported.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. STEIGER of Wisconsin. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman from Mississippi has asked that the resolution be reread.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, if any intervening motion or unanimous-consent agreement occurs such as the gentleman from Mississippi has suggested, do we then lose the right to vote on the second that has been demanded by the gentleman from California?

The SPEAKER. The vote by tellers will come on the second as soon as the request is granted.

Is there objection to the request of the gentleman from Mississippi?

Mr. STEIGER of Wisconsin. Mr. Speaker, reserving the right to object, under my reservation would it be possible to inquire whether or not a record vote could be demanded on the demand for a second?

The SPEAKER. The rule provides for tellers, under the provisions of clause 5, rule I.

Mr. STEIGER of Wisconsin. Mr. Speaker, further reserving the right to object, is a recorded teller vote in order under that procedure?

The SPEAKER. The answer to the gentleman is that under the rules this would not be in order.

Is there objection to the request of the gentleman from Mississippi?

Mr. RHODES. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RHODES. What would be the effect, Mr. Speaker, if the motion of the gentleman from West Virginia were not agreed to?

The SPEAKER. Then the motion could not be considered.

Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Mr. Speaker, reserving the right to object further, the Chair has just ruled that no electronic vote can be taken on a demand for a second, but if a quorum fails to vote by tellers, cannot then a yea and nay vote be demanded?

The SPEAKER. If a quorum fails to vote by tellers, an objection can be made to the result of the vote, and when the objection is made or

a point of order is made, an automatic rolleall can be had based upon the absence of a quorum.

Is there objection to the request of the gentleman from Mississippi?

Mr. ST GERMAIN. Further reserving the right to object, Mr. Speaker, we have been given the number of a bill, and we do not know what this is all about. Before we start to vote, I think it is certainly in order to get some slight explanation of what we are being asked to vote on.

The SPEAKER. The gentleman knows that if a second is ordered, there will be 40 minutes of debate on the motion of the gentleman from West Virginia.

Mr. ST GERMAIN. Mr. Speaker, the question is: Should we not know or have a slight inkling of what we are being asked to suspend the rules for and consider? I realize we have 40 minutes, but we do not have the slightest idea of what is going on here. There are rumors, and that is all.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

A second has been demanded.

Mr. WHITTEN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WHITTEN. May I respectfully ask that the Speaker advise us as to what we are voting on, if that is in order?

The SPEAKER. We are voting on the second on the motion to suspend the rules.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the motion be reread. There was no objection that I heard.

The SPEAKER. There was objection. Regular order has been demanded, and the regular order does require the Chair to proceed with the business.

Mr. WHITTEN. Mr. Speaker, I renew my request by unanimous consent that the motion be reread.

Mr. GIAIMO. Mr. Speaker, I make a point of order that the House is not in order and we cannot hear anything.

The SPEAKER. The regular order is that those in favor of the second will pass between the tellers.

Mr. WHITTEN. Mr. Speaker, I object on the ground that the motion was not read so the Members could hear it.

Mr. WAGGONNER. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. WAGGONNER. Mr. Speaker, there is not a Member of this Chamber who knows what is being voted on. None of the Speaker's last statements were heard by the Members of the House, and the House is entitled to know what the vote is being cast upon and what the issue is.

Mr. WHITTEN. Mr. Speaker, I further state that the motion was not read.

The SPEAKER. The motion was read.

The Chair will state again to the gentleman that a second was demanded, and tellers were demanded.

Those in favor of a second on the motion will pass between the tellers.

Mr. WAGGONNER. Mr. Speaker, what is the motion?

The SPEAKER. The motion is to suspend the rules and agree to House Resolution 759.

Mr. WAGGONNER. Then, Mr. Speaker, what is that resolution?

The SPEAKER. The resolution has been reported.

Mr. WAGGONNER. Mr. Speaker, the House does not understand the resolution as reported and I ask unanimous consent that it be reported again.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. BAUMAN. Mr. Speaker, I object. A vote is in process.

The SPEAKER. Objection is heard.

Mr. WAGGONNER. Mr. Speaker, I ask unanimous consent that the resolution be re-reported.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. ROBINSON of Virginia. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

On this vote all those in favor of ordering the second will continue to pass through the tellers.

The committee divided, and the tellers reported that there were—ayes 109, noes 20.

Mr. HOSMER. Mr. Speaker, under the provisions of rule XXVII, clause 2, I demand the regular order that the Chamber be closed and that the roll be called.

The SPEAKER. Does the gentleman object to the vote on the ground that a quorum is not present?

Mr. HOSMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The SPEAKER. The Chair will count. The Chair will count all Members. (After counting) 182 Members are present, not a quorum. A roll-call is automatic. So many as are in favor of ordering the second will vote "aye"; those opposed, "no."

Members will record their vote by electronic device.

POINT OF ORDER

Mr. WAGGONNER. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. WAGGONNER. Mr. Speaker, what are we voting on?

The SPEAKER. On seconding the motion of the gentleman from West Virginia to suspend the rules.

Mr. WAGGONNER. To suspend what rules?

The SPEAKER. To suspend under rule XXVII, all the rules inconsistent with immediate agreement to House Resolution 759.

Mr. WAGGONNER. Mr. Speaker, for the edification of the House, what does rule XXVII say?

Mr. PASSMAN. Regular order.

The SPEAKER. "When a motion to suspend the rules has been seconded, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for 40 minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition; and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate."

PARLIAMENTARY INQUIRIES

Mr. WAGGONNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The Chair is being as tolerant as he can be. The Chair is not obligated to recognize Members except for a point of order.

The Chair will recognize the gentleman for a parliamentary inquiry.

Mr. WAGGONNER. Mr. Speaker, if the rules are suspended, will then amendments be in order to the bill on which it is proposed to suspend the rules and consider?

The SPEAKER. The suspension of the rules, as the gentleman knows, means that all rules are suspended. The resolution itself orders the action which the House will take.

Mr. RHODES. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. RHODES. Mr. Speaker, my inquiry is this: If the proposal which has come before the House is voted down, does this mean that the request of the gentleman from West Virginia to suspend the rules will have failed?

The SPEAKER. The gentleman is correct.

Mr. HOSMER. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HOSMER. Mr. Speaker, in that event, would it be in order for the gentleman who has requested a suspension of the rules at this point to re-request a suspension of the rules in another form?

The SPEAKER. The gentleman is correct, in the discretion of the Chair.

Mr. RANGEL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. RANGEL. Mr. Speaker, on the legislation that comes before the House, will a two-thirds vote be necessary before it is passed?

The SPEAKER. If a second is ordered by a majority of the Members voting, a two-thirds vote will be required to suspend the rules and agree to the resolution.

The vote was taken by electronic device, and there were—yeas 148, nays 113, answered “present” 1, not voting 170, as follows:

[Roll No. 720]

YEAS—148

Adams
Alexander
Andrews, N.C.
Annunzio
Ashley
Badillo
Barrett
Bergland
Biester
Boland
Bowen
Brademas
Breaux
Breckinridge
Brown, Calif.
Burke, Mass.
Burlison, Mo.

Carey, N.Y.
Clark
Clay
Conte
Cronin
Culver
Daniel, Dan
Davis, Ga.
Dellums
Denholm
Dingell
Donohue
Downing
Drinan
Eckhardt
Edwards, Calif.
Eilberg

Evans, Colo.
Fascell
Fisher
Flood
Flowers
Foley
Ford, William D.
Fountain
Fraser
Gaydos
Gialmo
Gilman
Gonzalez
Gray
Green, Pa.
Gude
Gunter

Hamilton
Hanley
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks
Holifield
Howard
Hungate
Ichord
Johnson, Calif.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Koch
Kyros
Litton
Long, Md.
McCormack
McFall
McKay
Macdonald
Mahon
Mann
Maraziti
Mathis, Ga.
Matsunaga
Mazzoli
Meeds

Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Montgomery
Morgan
Natcher
Nedzi
Obey
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pickle
Pike
Preyer
Price, Ill.
Randall
Rangel
Reuss
Rinaldo
Rodino
Roe
Rogers
Rooney, Pa.

Rose
Rosenthal
Roush
Roy
St Germain
Sarbanes
Schroeder
Seiberling
Skubitz
Slack
Staggers
Stanton, James V.
Steele
Stokes
Stratton
Stuckey
Studds
Symington
Taylor, N.C.
Tiernan
Udall
Ullman
Vanik
Waldie
Whitten
Wilson, Charles, Tex.
Wylie
Yatron
Young, Ga.
Young, Tex.
Zablocki

NAYS—113

Abdnor
Archer
Armstrong
Bauman
Bennett
Bray
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burlerson, Tex.
Carter
Casey, Tex.
Cederberg
Chappell
Clausen, Don H.
Clawson, Del.
Cochran
Cohen
Conable
Conlan
Coughlin
Crane
Daniel, Robert W., Jr.
Davis, S.C.

Davis, Wis.
de la Garza
Dennis
Derwinski
Dorn
Duncan
Erlenborn
Esch
Findley
Forsythe
Frenzel
Ginn
Goodling
Guyer
Hammerschmidt
Hanrahan
Hansen, Idaho
Harsha
Hastings
Hogan
Holtzman
Horton
Hosmer
Hudnut
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kemp

Ketchum
King
Latta
Long, La.
McCloskey
McCollister
McDade
McKinney
Mallary
Martin, N.C.
Mathias, Calif.
Mayne
Milford
Miller
Mitchell, N.Y.
Mizell
Moorhead, Calif.
Mosher
Myers
Parris
Pettis
Powell, Ohio
Pritchard
Regula
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Ruth

Sandman
Satterfield
Shuster
Spence
Stanton, J. William
Steelman
Steiger, Wis.
Symms
Talcott

Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Vander Jagt
Waggonner
Wampler
Whalen

Widnall
Wilson, Charles H.,
Calif.
Winn
Wyatt
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.

ANSWERED "PRESENT"—1

Beard

NOT VOTING—170

Abzug
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Arends
Ashbrook
Aspin
Bafalis
Baker
Bell
Bevill
Biaggi
Bingham
Blackburn
Blatnik
Boggs
Bolling
Brasco
Brooks
Brotzman
Burgener
Burke, Calif.
Burton
Butler
Byron
Camp
Carney, Ohio
Chamberlain
Chisholm
Clancy
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Conyers
Corman
Cotter
Daniels, Dominick V.
Danielson
Delaney
Dellenback
Dent
Devine
Dickinson
Diggs
Dulski
du Pont
Edwards, Ala.

Eshleman
Evins, Tenn.
Fish
Flynt
Frelinghuyse
Frey
Froehlich
Fulton
Fuqua
Gettys
Gibbons
Goldwater
Grasso
Green, Oreg.
Griffiths
Gross
Grover
Gubser
Haley
Hanna
Hansen, Wash.
Harrington
Harvey
Hays
Hébert
Heinz
Hillis
Hinshaw
Holt
Huber
Hunt
Hutchinson
Jarman
Jones, Ala.
Keating
Kluczynski
Kuykendall
Landgrebe
Landrum
Leggett
Lelman
Lent
Lott
Lujan
McClory
McEwen
McSpadden
Madden
Madigan

Mailliard
Martin, Nebr.
Michel
Mills, Ark.
Minshall, Ohio
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Nelsen
Nichols
Nix
O'Brien
Peyser
Poage
Podell
Price, Tex.
Quie
Quillen
Railsback
Rarick
Rees
Reid
Riegler
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rostenkowski
Roussetot
Roybal
Runnels
Ruppe
Ryan
Sarasin
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Smith, Iowa
Smith, N.Y.
Snyder
Stark
Steed
Steiger, Ariz.
Stephens

Stubblefield	Vigorito	Wolff
Sullivan	Walsh	Wright
Taylor, Mo.	Ware	Wydler
Teague, Calif.	White	Wyman
Teague, Tex.	Whitehurst	Yates
Thompson, N.J.	Wiggins	Zion
Van Deerlin	Williams	Zwach
Veysey	Wilson, Bob	

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The gentleman from West Virginia (Mr. Staggers) is recognized for 20 minutes, and the gentleman from California (Mr. Hosmer) is recognized for 20 minutes.

PARLIAMENTARY INQUIRIES

Mr. BROWN of Ohio. Mr. Speaker, I have a parliamentary inquiry. The SPEAKER. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Speaker, if the subject now before us passes the House will it then require a conference with the Senate or a return of the subject matter to the Senate for a vote in the Senate?

The SPEAKER. The bill would be messaged, of course, to the Senate, but it would be up to the Senate to decide what they want to do.

Mr. BROWN of Ohio. Would it require a conference, Mr. Speaker?

The SPEAKER. The Chair cannot anticipate what the Senate might do.

Mr. BROWN of Ohio. It would require in any event, Mr. Speaker, further Senate action?

The SPEAKER. It would, before it was finally enacted, yes.

Mr. WHITTEN. Mr. Speaker, I renew my unanimous consent request that the resolution be reread.

The SPEAKER. The Chair really wants to accommodate the distinguished gentleman from Mississippi, and he hopes the House will be in order.

The Clerk will reread the resolution, if there is no objection.

There was no objection.

The Clerk re-reported the resolution.

Mr. DERWINSKI. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DERWINSKI. Mr. Speaker, my parliamentary inquiry is. Do I understand that the bill before us must be approved by a two-thirds vote?

The SPEAKER. The resolution must be approved by a two-thirds vote.

Mr. DERWINSKI. And it is not subject after the 40 minutes of debate to any amendment.

The SPEAKER. The gentleman is correct.

Mr. YOUNG of Illinois. Mr. Speaker, is there a copy of the bill available for us to read?

The SPEAKER. The gentleman from West Virginia I am sure has copies available.

Mr. YOUNG of Illinois. I thank the Chair.

The SPEAKER. The Chair recognizes the gentleman from West Virginia for 20 minutes.

Mr. STAGGERS. Mr. Speaker, I am in a rather difficult position tonight and I realize this, the mood of the House being what it is. But I would like for the Members to listen, if they will, for a few minutes to what the conferees and the committee has been through in the last month.

We have tried as diligently as any committee I know of in this House to try to respond to the wishes of this administration and the people of America. We have worked hard into the night many nights in our committee and the Members know we have worked hard on this, trying to get something worked out. We went into a conference with the Senate and spent 3 days, and on two of those we worked into the night late, one of the nights until about 11 o'clock.

Counsel on both sides started marking up the bill. The Senators said there was some mistake in what had been said and they did not like it and they thought we ought to go back into session again. I agreed to call all the conferees back into session, and the gentleman who offered the amendment was the gentleman from Maine, and he said what we had was identical to the amendment he proposed, and we did work out a little compromise with this on the Senate and I thought it was completely satisfactory.

The Senate took a different bill today, a wild rivers bill, I believe it is called, and sent it back over here with the conference substitute substantially amended.

A number of changes were made that I thought were very unacceptable that we had agreed to in the conference, and this after all the time we had spent on it.

The bill I have brought before the House is essentially the conference report that was adopted by the House and Senate conferees, and there are copies of it on the minority table and here on the desk, and there are plenty of copies of the conference report available in the rear of the Chamber.

We have made a number of changes in the hope of getting a bill acceptable to the Senate. There was an exception in the Senate to the words "Renegotiation Board" on referring these windfall profits to a Renegotiation Board, and all we did is to change that so it goes to the Attorney General of the United States. [Sec. 110.]

We knocked out all of the complex formula in determining windfall profits, and said instead of that we would define windfall profits to be profits which are excessive or unreasonable taking into consideration normal profits. That is the change. And these profits only pertain to profits that will be attained next year.

I would like to go a little further into this.

First, we have section 103 which has been amended to eliminate provisions which freed the Administrator of the Federal Energy Emergency Administration from various OMB controls. We thought we were freeing him from those controls, but it seems others wanted to put him back, and we have said all right, we will put him back.

Then another change is in section 105 relating to energy conservation regulations, which has been changed to limit the duration of any regulation under this to April 1, 1974. This is not a long time, I point

out to the Members. I will say that certainly we will know by April 1974, what is being done. The Senate agreed.

On **section 124**, which proposed to give administration authority for energy reserves, it has been amended to give this authority instead to the Department of Justice and Department of the Interior.

I think these are the main changes that have been made in what was proposed by the conferees and was brought out and agreed to by the conferees of the House and Senate. I believe this is a reasonable compromise. I think it is something necessary to this Nation now if we are to act as responsible Representatives of the people to give the administration authority to do the things they need to do in this emergency.

Mr. Speaker, I notice a lot of emotions running here tonight. I think there are questions we can try to answer and will answer them in any and every way we can, because we have nothing to hide.

Someone said, "What have you got back of this? There is nothing back of this except the truth so far as I know it."

Mr. Speaker, I would like to call upon the gentleman from New York (Mr. Hastings) a member of the conference, for any statement he may have.

Mr. HASTINGS. Mr. Speaker, I would like to address a word to the chairman as to whether there were any changes in the conference report as it related to **title II**, which is the amendment to the Clean Air Act for stationary emissions and automobile emissions.

Mr. STAGGERS. None whatsoever.

Mr. HASTINGS. As it relates to automobile emissions, the 1975 standards will be held in place for 1976, with the exception of postponement of the additional 1 year by the administrator, which are then permanent and not subject to the 4 months provisions under **title I**?

Mr. STAGGERS. This is true.

Mr. Speaker, I would like to say to the House that the gentleman was a conferee not only on the committee but on the Clean Air Act. I have enough confidence in those who served on that committee to say that I accept them and the report. We explained all of it, and they were good issues.

I want to congratulate him and all the rest of the members of the committee who took part in the separate conference, because they came back with a good report.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, I am not going to take long, because there is not much time.

As the gentleman from New York has stated, what was done for the Clean Air Act, as amended here in the conference, is as set forth in **title II**. The conference report is here and is available for the Members.

The chairman has just explained the few differences that this bill has brought up out of this conference report, so it is very clearly set forth for the Members.

Also, a point I think everyone should know is that in the conservation plans [**Sec. 105**] for energy which the President wants, asks authority for, this bill that we are bringing to the Members, that the

chairman is bringing to the Members, permits authority only until April 1, 1974; only until April, and all of those are subject to review and veto by this House.

So the prerogatives of the House are protected. I think all of us should face up to the responsibility we have. The President has asked for this authority; the people of this Nation expect this Congress to do something before it goes home. This is a hard worked-on bill. I think it is reasonable, and the few differences have just been outlined for the Members by the chairman of the committee.

Mr. Speaker, I thank the gentleman for yielding.

Mr. HOSMER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, in this proceeding this evening I am somewhat in the category of an innocent bystander. The Senate sent us a bill, S. 921, on the subject of scenic rivers. When it was referred to the Committee on Interior and Insular Affairs, we tacked on a House amendment which improved it considerably, and it was agreed to in the House.

We then passed the amended bill back over to the Senate, still as the scenic rivers bill. Late tonight, when this emergency energy bill appeared to be in gross trouble, some compromise was made, or at least in the other body they decided that they could take a stripped-down version of the emergency energy bill, instead of that thing we voted on night after night here and did not know what was in it by the time we got through.

They put a few essential things in the Senate rider that are needed during the period while we are away on recess. They put them in S. 921 as a nongermane amendment and sent it back over here tonight to us.

Now, as I understand it, the request has been made by the gentleman from West Virginia to take up that bill and pass it with a further amendment, which would add the text of something called H.R. 12128 onto everything else in the bill.

As I understand, H.R. 12128—and I will yield to the gentleman from West Virginia if I am wrong—is creation that was introduced within the last hour or two, and nobody knows really what it is. We do not have any copies of it around. As a consequence, we are kind of in a bind as to what it is.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. HOSMER. Mr. Speaker, I yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, as I understand the bill introduced by the gentleman from West Virginia, it is a substitute for the Senate bill. If the act of the gentleman from West Virginia which the gentleman has given were actually agreed to by the House, it would have the effect of nullifying the Senate bill and substituting therefor.

Mr. HOSMER. Mr. Speaker, I am grateful for the correction.

Mr. Speaker, in any event, this H.R. 12128, which would be substituted, is according to information I have received from the White House, highly objectionable to the President on the grounds it will introduce language on the energy issue and, particularly, relative to the windfall profits **[Sec. 110]**, which is loose, ambiguous, ineffective, and would impede the Nation's energy effort by curtailing energy and discouraging investment in energy areas; further, that proper legislation will be sought in this windfall area immediately on the

return of Congress, and that the windfall subject will then be dealt with carefully with language drawn not to retain these various disadvantages, but actually to accomplish the purposes and objectives desired.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I would like to just briefly say to the House that the Senate considers the House of Representatives its doormat, and I for one am tired of their saying, "You take this or else?" I believe that as Members of the House of Representatives we are a responsible body.

Mr. HOSMER. Mr. Speaker, I feel I should decline to yield to the gentleman further. He is dealing with his views of the other body which are comparable to my own, but I think we are up against a specific situation here where we find ourselves somewhat in disagreement.

I had to use dilatory tactics in order to get time for some understanding of what is going on. We finally have received some understanding of what is going on. We also have an understanding, based on the last vote, that the gentleman does not have two-thirds support.

Mr. Speaker, there is an answer. If this is voted down, the gentleman can simply in the next moment request that the Senate bill be brought up with everything but the amendment that he wants in it and passed by two-thirds vote under suspension of the rules. Then we can get out of here.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield on that point?

Mr. HOSMER. I will yield to the gentleman.

Mr. STAGGERS. Mr. Speaker, I would just like to say this to the gentleman: That I think every Member in this conference tried to do what they thought the House of Representatives wanted and what the Members of the House of Representatives would have us do.

The Senate put this onto another bill which is not germane to this issue, they sent it over here to us, and they expected us to take it.

Mr. HOSMER. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL of North Carolina. Mr. Speaker, I know that the parliamentary situation is quite confused here tonight. I know that there were doubts about the amendments that passed in the House last week. I know there were considerable doubts as to what was in the bill that actually passed in this House last week.

The conference committee, as the chairman of the committee has said, has worked hard, and all day long Members have been asking me, "What is in the conference report?"

The Members do not even know what is in that conference report. They do not know what is in this bill that the chairman of the committee brings to us tonight. But we do know that the other body had one of its extended discussions, and there were such strong objections to the conference report that finally a compromise was worked out. A compromise was worked out and was passed by the other body by a vote of 52 to 8. It was sent over here.

Mr. Speaker, the chairman of the committee said that he is in a difficult position. Well, so am I.

Petroleum and fuel shortages are real, and we need to take some action here. I know the Members are hearing from people back home, and they are asking us to take some leadership here.

However, I am confused. I do not know exactly what is in this bill that is brought to us here by the chairman of the committee. He asks us to pass it.

I do know, from what I understand, that the so-called windfall profits section [**Sec. 110**] is back in here, and that section was deleted by the other body. Of course, I think all of us remember that I did make an effort to delete that in the House bill. I felt then, and I still feel, that these sections are unworkable. They are ill-defined and impossible to administer.

I also recognize that legislation in this area is badly needed. On Wednesday, of course, President Nixon announced that he will be recommending to the Congress new legislation to control excessive profits. I applaud this initiative. It is going to be up to the Congress of the United States to begin to work as soon as possible, and expeditiously, to pass new legislation like this.

New, what position are we in? We can pass this bill that the chairman of the committee offers to us. We have not had a chance to see it.

However, we do know this: That the other body, for whatever reason, refused to accept the conference report. We do need some legislation now.

This puts me in a very difficult position. But I think that legislation is the art of compromise. I do not like to be held up. I do not like the procedure, but I do not want to be cold this winter either.

If we do pass the bill that was sent to us by the other body tonight, it could be signed by the President and we could begin immediately to implement the programs that are in that bill, the bill sent to us by the other body. We do not know what might happen, we do not know how long it could be held up, and possibly we might even be debating this issue again in January in freezing weather if we just send the chairman's bill back to the Senate. Let us have a vote on the Senate passed bill so we can get some fast action and no further delay.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL of North Carolina. I will be glad to yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, the gentleman from North Carolina has made a statement that I think is fairly reasonable. There is only one thing I would not agree with. The gentleman took part in all of the debate and all of the conference, and the gentleman signed the conference when it came out. I thought the gentleman was fairly well in agreement with what was in the bill when he signed the statement of managers.

Mr. BROYHILL of North Carolina. I also recognize, Mr. Speaker, that we are at an impasse; unless we take some action tonight we are not going to have any legislation.

Mr. STAGGERS. I am not sure that the gentleman from North Carolina does know what is in the Senate bill. We are trying to tell the Members what is in our bill.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Speaker, I thank the gentleman for yielding, and I wonder if the gentleman from North Carolina could explain to the general membership of the House, some of us who are just poor clods, and who are especially those of us not on the Committee on Interstate and Foreign Commerce, could you tell us what would happen if we do not have an energy bill?

Mr. BROYHILL of North Carolina. What does the gentleman mean, if we do not have an energy bill?

Mr. FLOWERS. If we do not pass the bill tonight?

Mr. BROYHILL of North Carolina. Mr. Speaker, the energy crisis is real. I know there are some who would think that it is contrived. The President has certain authorities. He has authority to ration. Rationing is in this bill. **[Sec. 104.]**

Mr. FLOWERS. He already has that authority.

Mr. BROYHILL of North Carolina. Yes, under mandatory fuel allocations; but there are certain things that he does need in the area of energy conservation.

Mr. FLOWERS. Mr. Speaker, if the gentleman will excuse me, then the answer is he does have authority to ration now?

Mr. BROYHILL of North Carolina. That is correct. But no one wants rationing. There are certain authorities in this bill to reduce our demand, not to have to control the supplies. Why do we have to put the burden of rationing on the American people when through energy conservation we can avoid rationing?

Mr. FLOWERS. Mr. Speaker, I think, if the gentleman will give me one second to respond, everybody is for believing the shortages, reducing demand and increasing supplies, but I am not convinced that a bill that none of us seem to know anything about is the answer to it.

The SPEAKER. The time of the gentleman from North Carolina has again expired.

Mr. STAGGERS. Mr. Speaker, I wonder if the other side would care to use some more of their time?

Mr. MACDONALD. Mr. Speaker, I shall not take very long. I simply do not blame the gentleman from North Carolina for not understanding exactly what is in the bill to which he refers because every time we had a conference and came to a decision, and it seemed to be final, the gavel would bang, but it would not be 30 seconds before we would be back discussing the very same subject as we had just put behind us.

I would like to point out how far backward we bent to be fair to the administration, and to others whom were sent to testify. We took time out of our conference, and in a very unusual step, in my mind, in order to listen to Mr. Simon, who came in with a laundry list, as he described it, of about 20 things, all of which he already either had or which we gave him.

The net result of our giving in to him was that the Senate accepted that in lieu of going back to their description of what a windfall profit is. And I am going to leave that to the gentleman from Kansas (Mr. Roy) to discuss that, because the gentleman is an expert on that subject.

But I want everyone in the House to be very clear indeed that when this is voted upon and we send it back to the Senate, we are not sending back a bill to them for passage; we are showing them that we

have worked longer and harder, and in my judgment—for what it is worth—have worked more intelligently and with more cohesion than the other body. And I urge us not to back down at this point and once again become the whipping boy for everything that goes wrong here in the U.S. Government.

Mr. BROWN of Ohio. Mr. Speaker, let me observe first for the gentleman from Alabama who inquired about the need for this legislation that I understand the bill that would be considered under the amendment the gentleman from West Virginia proposes or the one that came back from the Senate whichever bill we might be considering, would terminate the first of April 1974. They both have the same termination date. To the question of whether or not there is authority for the President to go ahead and act, I think there is authority for the President to go ahead and act under the mandatory fuel allocation legislation in the case of rationing. There is authority for him to act under the Defense Production Act in terms of certain conservation procedures; and there is authority for him to act under the War Powers Act, although that is debated as to whether or not it is appropriate to this domestic crisis during peacetime.

I assume our failure to act would open the whole question up to endless lawsuits, but I would also submit that this legislation is going to open up the Government to endless lawsuits because, among other things, rationing under this legislation could be imposed only as a last resort if everything else has been tried.

The other things that could be tried are the energy conservation plans, but the energy conservation plans under the legislation we have before us can be imposed only if they are not arbitrary, capricious, inequitable, disproportionate or unreasonable and that legislative language should raise many questions, as should the prospect of congressional veto up until sometime in March. If that veto is going to come, how many industries are going to implement those energy conservation plans now? After the first of March we have the opportunity for 15 days to veto energy conservation plans before they can take effect. If we veto them, then we ought to come up with some kind of an alternative. If we do not veto them, we do not have much right to criticize.

Then after the first of July 4 months before the election next year, we will have the opportunity to start imposing our own plans on the on the country. Is not that going to be lovely?

I would suggest, Mr. Speaker, that the administration can now go ahead and do some of those things. We have considered this 37-page bill under these circumstances for 40 minutes. I look at that bill, and there is a correction on every page but three of that bill. I am not sure I know at this point what we would be voting on.

I know that there were many of my colleagues who voted reluctantly for the Emergency Energy Act when it passed the House last week. They voted in the hope that the conference committee would clean up the bill and make it into a workable mechanism. Unfortunately the conference did what conferences sometimes do the last few days before adjournment—it was more anxious to complete its task by compromising than it was to fully consider the impact of all of its compromises. As a result, this bill purports to do things which it does not do.

Are you for or against rationing?

If you are for it, then this bill gives the authority to the President or his Administrator to impose rationing, but it provides that he must have exhausted all other remedies first. Thus, whenever imposed, any rationing would be open to endless lawsuits. But does it give the Congress the right to veto rationing? No, it does not. **[Sec. 104.]**

Would the House rather have the administration impose energy conservation plans than rationing?

This bill purports to do that by conveying to the Administrator the authority to impose energy conservation plans immediately. But it reserves to Congress the right to veto those plans after the fact—as much as 2 months after the conservation plan is imposed. Is it likely that any plan which imposes any substantial hardship, then, will get the support or the substantial investment of anyone until he knows whether Congress is going to go along. **[Sec. 105.]**

If the crisis is real and swift emergency action is needed, then Congress should be able to identify the areas where such action must be taken and assign that authority to some part of the executive branch for administration—or devise plans of action itself and promptly. But giving the authority with one hand while taking it away with the other does not seem to be the best way to administer a pressing problem. Unfortunately this legislation is replete with such dichotomies.

Would you rather have the Congress responsible for the plans for dealing with the energy crisis?

Well, Members of Congress are going to get that opportunity. As I noted, as soon as Congress returns for the second session, this legislation provides Members with the chance to vote approval or disapproval of all the actions the administration takes up until the 1st of March. Actually, that is a veto or a concurrence after the fact. Then, on March 1, the rules change and the administration can only announce plans that will go into effect within 15 days if Congress does not disapprove the proposals—a veto before the fact. And after July 1—4 months before the 1974 election—the administration can only propose plans, but the plans cannot take effect until Congress positively enacts them. Such a shifting responsibility is a plan for inaction. **[Sec. 105 (b).]**

If the administration wants to act promptly to ration or to impose energy conservation plans, it would be better advised to use its authority under the Mandatory Fuel Allocation Act of 1973 or the Defense Production Act of 1950. There would probably be some risk of lawsuits questioning executive branch authority under those laws as written for wartime situations, but perhaps no more risk than exists under this legislation.

If this bill equivocates on who has the authority for imposing energy conserving plans, then perhaps it makes it easier for citizens to get together to deal with the energy crisis voluntarily?

Combined voluntary action in the face of crisis has long tradition in our Nation going back to the first bar raisings and joint efforts to clear the land. But the energy business—both the production of energy and the distribution and consumption of it—is big business in America today. This bill says that industries which produce petroleum can combine to solve the energy crisis only at their own legal peril and those who consume energy should not be

allowed to combine to save energy at all. The retail antitrust exemption, supported in the House, was removed on a straight party line vote in the conference. The language of the Rodino amendment on the petroleum industry was left in, of course, because it purports to give an exemption without really doing so. The result is that voluntary action to help resolve the energy crisis can be taken only at the risk of later antitrust prosecution or other lawsuits—in addition to a good case of the sniffles. **[Sec. 114.]**

If the bill doesn't really make the reduction of energy consumption easier, perhaps it attempts to stimulate the supply of energy in some way.

No, this bill is brought to you by those same wonderful people who brought you the natural gas shortage even before other sources of energy were in short supply. So the conference gave the authority to the administration to set price ceilings on oil. Never mind the economic fact that prices held artificially low tend to stimulate consumption and reduce supply which is the prime cause of the shortage in the first place. This bill is designed to assure that, the consumer will not have to pay much for petroleum products—if he can find any of them. Such proposals seem like good politics, but they make very poor energy economics. Here again is an example of the bill purporting to do something to help with the energy crisis, but really hurting. It is another example of how the bill is designed for no action, rather than positive action.

The section **[Sec. 110]** of the bill which is designed to deal with windfall profits actually does not take effect until next year in the admitted hope that Congress will take the time to look at the complex question of oil economics. It says to producers of petroleum, "If you make more money than usual during the energy crisis, the Government is going to come back later and do something about it." The bill purports to encourage the oil industry to reinvest any unusual profits in exploration for new supplies but the language also admonishes any company with higher than usual profits that it must maintain cash in hand so that it can pay any claims lodged against it under this law. Such a section is hardly going to encourage a company to reinvest its profits in greater production.

So, if the bill doesn't really provide for swift and sure methods of reducing energy consumption; and if it doesn't really encourage the increase of energy supply, does it do anything about taking care of those people who will be out of jobs because there isn't enough fuel to go around?

Here is one bright spot in the bill. The conferees authorized \$500 million for attention to the unemployment caused by people thrown out of work as a result of this legislation. **[Sec. 116.]** But I would predict that there will not be a lawyer on those unemployment roles because even the unemployment section leaves vague the method of determining what "unemployment resulted from administration and enforcement of this act."

Similarly irresistible for attorneys will be the language in the legislation which deals with the priorities to be considered in establishing rationing or energy conservation plans. While the bill provides the same priorities as now exist in the mandatory fuel allocation act, the

Congress then says such priorities cannot be "arbitrary and capricious or inequitable, unreasonable or disproportionate." A law which mandates the administration to observe priorities and then prohibits inequities will be easier to challenge in the courts than it will be to administer.

The bill does many things that will help meet the challenges of the energy crisis. Included in that list are such things as the authority to suspend until November 1, 1974, clean air standards for the use of coal in stationary energy sources and leave them relaxed until January 1, 1979, if compliance can be obtained by then even with the use of coal.

[Sec. 201.]

Similarly, temporary freezing of 1975 standards of vehicle emissions through 1976 is also helpful in conserving energy in light of the present technology. Carpooling is to be encouraged through use of fast lanes and other methods and Federal actions are mandated to be sure the Government is buying or using fuel-efficient automobiles.

The legislation also makes a limited provision for establishing a temporary Federal Emergency Energy Administration, which can be more carefully done in legislation already underway in other congressional committees. **[Sec. 104.]**

Many other matters are also covered or attempted in this legislation, including treatment of regulated carriers and an attempt to provide for allocation of materials now in shortage which are vital to production and distribution of energy. The importation of liquid natural gas is made easier, as is the restriction of export of fuels. Most of these provisions are, or were meant to be, innocuous.

But, something which is usually innocuous in legislation, is anything but that in this bill: the study section. The Congress in this bill urges a study of so many facets of the energy problem that the administration may be able to do very little else. The bill calls for approximately 25 studies and reports due within every possible time frame from 30 days to 1 year—an average of a report or study of the energy problem every 2 weeks. With every major committee in Congress now having an energy subcommittee, one wonders if some energy might not be saved by reducing the number of studies and followup testimony which will be triggered by this bill.

The legislative response in this bill is ambivalent and tentative. If contemplation and reconsideration will solve the energy crisis, this bill should do it. But it is my conclusion that the time for such delay is past. The time for action is here. If Congress is not confident in the President's ability to take effective action, then Congress should legislate its own methods of dealing with the issues involved. But this bill does not do that.

It gives the administration only tentative authority and reaffirms congressional mistrust of the private sector. Such reservations could have merit if some other alternative in the present crisis is offered, but this legislation offers none. This bill is a plan for inaction, political second guessing and lawsuits. The administration would be better advised to ignore this legislative effort and start over with Congress next year after the holiday recess. In the meantime, it can use existing authority just as effectively as that presented here and will probably do better even asking voluntary cooperation from the public at large. The

people already appear to have responded with more enthusiasm to the call for voluntary action on the energy crisis than this particular legislation indicates Congress is ready to do.

Mr. ROY. Mr. Speaker, the conferees did not disagree. It is my understanding that 6 out of 7 House conferees signed the conference report, and I believe 13 out of 15 Members of the Senate signed the conference report. It so happened that when the conference report got to the Senate, it was suddenly discovered by a number of Senators that there was a windfall profit section in the bill, and they objected absolutely to the windfall profit section. This occurred even after the conferees had modified the windfall profit section to take care of many of the objections of the House Members, some 180 or so, who voted for a substitute section. They modified, old **section 117** of the House bill, **section 110** of the conference bill, to say that would not become effective until January 1, 1975. That section had three subsections. One specified that the President should specify profits to avoid windfall profits. The second provided a remedy, and the third defined windfall profits.

In addition, the conferees adopted a pricing section which simply stated the President shall specify profits to avoid windfall profits, and such profits are defined as excessive or unreasonable profits based on normal profits. This is a very reasonable section, but provides no remedy and is unenforceable. **[Sec. 110.]**

The choice we have here tonight is to vote for the substitute bill, H.R. 12128, which is a vote which says simply that we shall not permit windfall profits. But, in addition, it permits the tax-writing committees of the House 1 year to substitute for the remedy of the original House bill. It thus makes it possible for both bodies to express their will whether to require reinvestment of such profits or levy an excess profits tax, or any other remedy they may provide in their wisdom.

But the Members of the other body who today denied, by parliamentary maneuver, their colleagues a vote on excess profits, will not even permit this.

I urge you to vote "yes" on the resolution before you.

Mr. DINGELL. Mr. Speaker, I was appointed late a conferee on this matter after all questions other than the windfall profits section were disposed of. Let me begin by saying, first of all, that every House conferee except the gentleman from Ohio (Mr. Brown) signed the conference report twice. The Senate agreed to the conference report twice. Once they found that ambiguities and the conferees were compelled to reconvene, then the conference report was rejected by the device of a filibuster. The House is expected to finally lie down and take the Senate's action inflicted upon the House by a filibuster, and that filibuster is in the interest of big oil.

The rules of the House forbid me to speak in a derogatory fashion of the Senate, but all of the Members know me well enough to know what my thoughts are on the conduct of the other body, even though I do not choose to utter them at this time.

The fact of the matter is we are proceeding under about the same amount of time we would have if we had presented a conference report, 40 minutes in each instance. The question before my colleagues is whether or not they will be stomped on by the other body or whether or not they will support their conferees in their actions on this body.

The bill before us substantially implements the intent of the House as was previously indicated. The reason we are before the Members with the procedure we are now engaged in, is this is the only way the House could present the Members with a chance to vote on whether or not they want unjust enrichment or a limitation on windfall profits to the bloated oil companies who will have the highest level of profits in their history. That is the question before the Members.

If the Members want to lie down before the Senate, if the Members want to lie down before the oil companies, if the Members want to have excess profits by the oil companies, if they do not want to vote to support their conferees, they will vote "no." If they want to have a good program, the best program that could be worked out, given that we were working with the U.S. Senate, then vote "aye" tonight.

The question tonight is, and there are no games being played, are the Members willing to take substantially the House version or the Senate version? I urge my colleagues to vote "aye."

Mr. HASTINGS. Mr. Speaker, there was a question asked by the gentleman from Alabama (Mr. Flowers) as to what difference it makes whether we had this legislation or did not.

I want to speak just to one title of the bill, which is **title II**. That deals with, as most Members know, the changes made in the Clean Air Act. I will tell the House what this does. There cannot be any coal conversion of any electrical powerplant or any other stationary emission plan in this country unless we change **title II**. Unless we amend the Clean Air Act as we agreed to in the House version there can be absolutely no conversion from liquid petroleum fuel to coal. That is one of the reasons why this bill under one form or another must be approved.

I thank the gentleman for yielding.

Mr. RHODES. Mr. Speaker, I thank the gentleman from New York for his contribution.

Mr. Speaker, I have great admiration for my good friend, the gentleman from West Virginia, and I know his committee has worked hard and long on this bill. I also know he wants an energy bill as I want an energy bill. I think the only thing we differ on is the best way to get the bill.

The energy crisis is upon us. The country expects us to enact a bill and to do it tonight.

Mr. Speaker, the gentleman from West Virginia has asked us to suspend the rules and pass a bill which he has just recently introduced. Frankly I do not know exactly what is in the bill. I do know there are provisions in the bill which have been not acceptable to the U.S. Senate. I also know they have been not acceptable to the administration. I say to the Speaker that if the gentleman from West Virginia is successful in his attempt tonight, we will be passing a bill which will go absolutely nowhere. There would then be no bill passed by the Congress and signed into law by the President of the United States on energy in this session of the Congress. The people expect that to be done.

I would also like to make it very clear, Mr. Speaker, that after the bill offered by the gentleman from West Virginia is voted down, if it is, it will then be in order for him to move to take the Senate bill from the Speaker's table and pass it under suspension. And if this

is done the bill may then go directly to the White House and be signed by the President and the actions which are necessary—some of them pointed out very eloquently by the gentleman from New York—to deal with this energy crisis will then be taken.

It has been said by the gentleman from Michigan as by others that one of the matters which we are concerned with, and we are, is windfall profits. I am worried about that and I am sure the rest of the Members are also. However, the windfall provision [Sec. 110] which is in the bill offered by the gentleman from West Virginia I am told is about the same windfall provision which was in the bill that originally passed the House. That provision is not acceptable and the reason it is not is because it will absolutely negate the purpose of the bill.

The purpose of the bill is to produce more energy. We want to get people to build more refineries, we want to get more production of gas and oil. If the windfall profits section as now written is part of the law, there will not be capital available to make the investments which are necessary to do this. So, the bill offered by the gentleman from West Virginia will be self-defeating, and it must not be in the energy bill as it is passed.

If indeed excess profits are made, I think everybody knows that the President has already stated that he intends to send a message to the Congress asking for excess profits tax legislation in January. Also, the original bill which this House passed and which the Senate passed will still be available.

It is still in conference, and if indeed it becomes necessary for us to enact some part of that bill, the conference can reassemble after January 21 and they can take applicable provisions of that bill, which is still alive, bring them back to this House and pass them if they desire to do so.

Mr. STAGGERS. Mr. Speaker, does the gentleman know that the Senate bill prohibits this Congress from obtaining necessary information about oil reserves or any reserves in America?

Mr. RHODES. Mr. Speaker, I realize that the Senate bill is not perfect any more than the bill which he has just introduced is perfect.

Mr. STAGGERS. Mr. Speaker, I wanted to know if the gentleman knew this.

Mr. RHODES. Certainly. And I agree with the gentleman that both bills are far from perfect, but we have had to enact this legislation under pressure, and I think the gentleman has done a fine job. I think the bill which I hope the gentleman will bring up, which the Senate has passed and which will be signed, is also as good a bill as could possibly be produced under the circumstances.

Mr. Speaker, I ask for a "no" vote on the proposal of the gentleman from West Virginia, then a vote to pass the Senate bill.

Mr. ECKHARDT. Mr. Speaker, the choice is between three views. The one would be the Senate bill, which is really a copout. It is a bill that ends on April 1, 1974; really an April Fool's joke.

The other thing that it does is that it eliminates substantially everything that has been put in our bill on the House side with respect to windfall profits.

A second choice would be the committee's report, if we ever get that. It appears that the Senate will not permit us to vote on this, but I

submit to the Members that the bill we have before us as a substitute, the one in this resolution, H.R. 12128, is closer to the action of the House on Friday night than either of these two bills.

I shall support the chairman's motion.

Mr. Speaker, the main reason I support it is, because it narrows Executive authority with respect to energy plans more than either of the other two approaches. I should amend that with this qualification: I suppose one could say that the Senate bill is as narrow, but the Senate bill completely ends on April 1.

If we pass this bill, we have narrowly constricted the power of the Executive to put into effect energy conservation plans until April 1, at which time they altogether cease, and any plans which are to have any effect after that date must be enacted as law, as we provided in our bill on last Friday. I think that is good.

In addition to that, between the time the plan goes into effect and April 1 we can disallow or veto any Executive plan within 15 days.

Mr. O'NEILL. Mr. Speaker, may I say to the gentlemen and particularly to the gentlemen on the other side of the aisle, the vote the other night on this bill, practically the same bill, was 265 ayes to 112 nays.

There has been very little change in this bill. So that the Members will not think they are voting on a final passage, this is a matter that has been substituted in the Senate, with an amendment which will go back to the Senate. There is no guarantee, that it will be voted in the Senate, but it will go back there.

Mr. Speaker, the minority has said that the President will veto this matter, just as he has vetoed some 20-odd bills in the last couple of years. Let us see if he wants to veto this one or not. I doubt very, very much, if this reaches his desk, that he would ever veto it.

Mr. Speaker, I believe we have done our part. As the gentleman from Texas has so ably spoken, there have been two parts of this bill that have been stricken. We bound and we are bound by a vote of this House, and bound by a vote of this House so many times the other day on the amendments offered in the conservation matter and on the windfall profits matter that I think the sensible, decent, fair thing is to follow the vote we had the other day and return this bill to the Senate. Then it is up to the Senate to ask whether or not it wants a conference on the matter.

Mr. STAGGERS. Mr. Speaker, in closing debate, I would like the House to just remember this: During the conference the other night the President called me from the conference and talked to me about different provisions of the bill. He asked if I would see Mr. Simon with some of the others. I said that we could afford that courtesy.

We adjourned the committee meeting and went out and listened to Mr. Simon. We reviewed several issues with him. Two of them he was especially concerned with we have taken care of. The others I told him we were in the process of taking care of right then.

Therefore, I have every reason to believe that the President of the United States will sign this bill, and I am sure Mr. Simon will recommend that he sign it.

Now, Mr. Speaker, the people are looking to this Congress for leadership, and I do not believe that we can go home and say that we have

not accepted our responsibility. I hope that every Member here will vote "aye" when each of us thinks about what is in the bill.

Mr. Speaker, I have reason to believe this, too: after consultation with the Senate, I feel certain they will accept what we pass right here, because we have worked to accommodate their concerns. So I have reason to believe they will accept it tonight, and we can go home tonight.

Mr. Speaker, I am not trying to pull any shenanigans on the Members of this House. I am only trying to tell the Members the truth.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers) that the House suspend the rules and agree to the House resolution (H. Res. 759).

The question was taken.

Mr. Hosmer. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 169, nays 95, not voting 168, as follows:

[Roll No. 721]

YEAS—169

Abdnor	Drinan	Karth
Adams	Eckhardt	Kastenmeier
Alexander	Edwards, Calif.	Kazen
Andrews, N.C.	Eilberg	Koch
Annunzio	Erlenborn	Kyros
Ashley	Esch	Litton
Badillo	Evans, Colo.	Long, La.
Barrett	Fascell	Long, Md.
Bennett	Findley	McCormack
Bergland	Flood	McDade
Biester	Flowers	McFall
Blatnik	Foley	McKay
Boland	Ford, William D.	McKinney
Brademas	Fountain	Macdonald
Breaux	Fraser	Maraziti
Breckinridge	Gaydos	Mathis, Ga.
Brinkley	Giamo	Matsunaga
Broomfield	Gilman	Mazzoli
Brown, Calif.	Ginn	Meeds
Brown, Mich.	Gonzalez	Metcalfe
Broyhill, N.C.	Gray	Mezvinsky
Burke, Mass.	Green, Pa.	Minish
Burlison, Mo.	Gude	Mink
Carey, N.Y.	Gunter	Mitchell, Md.
Chappell	Hamilton	Mitchell, N.Y.
Clark	Hanley	Moakley
Clausen, Don H.	Hastings	Mollohan
Clay	Hawkins	Morgan
Cohen	Hechler, W. Va.	Mosher
Conte	Heckler, Mass.	Natcher
Coughlin	Helstoski	Nedzi
Cronin	Henderson	Obey
Culver	Hicks	O'Hara
Davis, Ga.	Hollifield	O'Neill
Davis, S.C.	Holtzman	Owens
Dellums	Howard	Passman
Denholm	Hungate	Patman
Dingell	Johnson, Calif.	Patten
Donohue	Jones, N.C.	Pepper
Downing	Jordan	Perkins

Pickle
Pike
Preyer
Price, Ill.
Pritchard
Quie
Randall
Rangel
Reuss
Rinaldo
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal

Roush
Roy
St Germain
Sarbanes
Schroeder
Seiberling
Slack
Staggers
Stanton, J. William
Stanton, James V.
Steele
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Symington

Taylor, N.C.
Thone
Tiernan
Udall
Ullman
Vanik
Waldie
Whalen
Widnall
Wilson, Charles, Tex.
Wyllie
Yatron
Young, Ga.
Young, Ill.
Zablocki

NAYS—95

Archer
Armstrong
Bauman
Beard
Bowen
Bray
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Carter
Casey, Tex.
Cederberg
Clawson, Del
Cochran
Conable
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
de la Garza
Dennis
Derwinski
Dorn
Duncan
Fisher
Forsythe
Frenzel
Goodling
Guyer

Hammerschmidt
Hanrahan
Hansen, Idaho
Harsha
Hogan
Horton
Hosmer
Huber
Hudnut
Ichord
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Kemp
Ketchum
King
Latta
McCloskey
McCollister
Mahon
Mallary
Mann
Martin, N.C.
Mathias, Calif.
Mayne
Melcher
Milford
Miller
Mizell
Montgomery
Moorhead, Calif.

Myers
Parris
Pettis
Powell, Ohio
Regula
Rhodes
Roberts
Robinson, Va.
Ruth
Sandman
Satterfield
Shuster
Skubitz
Spence
Steelman
Symms
Talcott
Thomson, Wis.
Thornton
Towell, Nev.
Treen
Vander Jagt
Waggoner
Wampler
Whitten
Wilson, Charles H., Calif.
Winn
Wyatt
Young, Alaska
Young, Fla.
Young, S.C.

NOT VOTING—168

Abzug
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Arends
Ashbrook
Aspin
Bafalis
Baker

Bell
Bevill
Biaggi
Bingham
Blackburn
Boggs
Bolling
Brasco
Brooks
Brotzman

Burgener
Burke, Calif.
Burton
Butler
Byron
Camp
Carney, Ohio
Chamberlain
Chisholm
Clancy

Cleveland	Holt	Rostenkowski
Collier	Hunt	Rousselot
Collins, Ill.	Hutchinson	Roybal
Collins, Tex.	Jarman	Runnels
Conyers	Jones, Ala.	Ruppe
Corman	Keating	Ryan
Cotter	Kluczynski	Sarasin
Daniels, Dominick V.	Kuykendall	Scherle
Danielson	Landgrebe	Schneebeli
Delaney	Landrum	Sebelius
Dellenback	Leggett	Shipley
Dent	Lehman	Shoup
Devine	Lent	Shriver
Dickinson	Lott	Sikes
Diggs	Lujan	Sisk
Dulski	McClory	Smith, Iowa
du Pont	McEwen	Smith, N.Y.
Edwards, Ala.	McSpadden	Snyder
Eshleman	Madden	Stark
Evins, Tenn.	Madigan	Steed
Fish	Mailliard	Steiger, Ariz.
Flynt	Martin, Nebr.	Stephens
Frelinghuysen	Michel	Stubblefield
Frey	Mills	Sullivan
Froehlich	Minshall, Ohio	Taylor, Mo.
Fulton	Moorhead, Pa.	Teague, Calif.
Fuqua	Moss	Teague, Tex.
Gettys	Murphy, Ill.	Thompson, N.J.
Gibbons	Murphy, N.Y.	Van Deerlin
Goldwater	Nelsen	Veysey
Grasso	Nichols	Vigorito
Green, Oreg.	Nix	Walsh
Griffiths	O'Brien	Ware
Gross	Peyser	White
Grover	Poage	Whitehurst
Gubser	Podell	Wiggins
Haley	Price, Tex.	Williams
Hanna	Quillen	Wilson, Bob
Hansen, Wash.	Railsback	Wolff
Harrington	Rarick	Wright
Harvey	Rees	Wyder
Hays	Reid	Wyman
Hébert	Riegle	Yates
Heinz	Roncalio, Wyo.	Young, Tex.
Hillis	Roncallo, N.Y.	Zion
Hinshaw	Rooney, N.Y.	Zwach

The Clerk announced the following pairs:

On this vote:

- Mr. Dent and Mr. Rostenkowski for, with Mr. Hays against.
 Mr. Rooney of New York and Mr. Carney of Ohio for, with Mr. Hébert against.
 Mr. Moorhead of Pennsylvania and Mr. Kluczynski for, with Mr. Rarick against.
 Mr. Biaggi and Mr. Bingham for, with Mr. Butler against.
 Mr. Brasco and Mr. Burton for, with Mr. Snyder against.
 Mrs. Chisholm and Mr. Corman for, with Mrs. Holt against.
 Mr. Cotter and Mr. Dominick V. Daniels for, with Mr. Price of Texas against.
 Mr. Evins of Tennessee and Mrs. Grasso for, with Mr. Collins of Texas against.
 Mr. Hanna and Mr. Harrington for, with Mr. Heinz against.
 Mr. Lehman and Mr. Madden for, with Mr. Madigan against.
 Mr. Moss and Mr. Murphy of New York for, with Mr. Zion against.
 Mr. Nix and Mr. Podell for, with Mr. Camp against.

Ms. Abzug and Mr. Stark for, with Mr. Martin of Nebraska against.
 Mr. Thompson of New Jersey for, with Mr. Michel against.
 Mr. Yates and Mr. Conyers for, with Mr. Taylor of Missouri against.
 Mr. Steed and Mr. Wolff for, with Mr. Sarasin against.
 Mr. Diggs and Mr. Dulski for, with Mr. Landgrebe against.
 Mr. Anderson of California and Mr. Murphy of Illinois for, with Mr. Devine against.

Mr. Sisk and Mr. Ryan for, with Mr. Scherle against.
 Mr. Delaney and Mr. Danielson for, with Mr. Steiger of Arizona against.
 Mr. Addabbo and Mr. Van Deerlin for, with Mr. Rousselot against.

Until further notice :

Mr. Bevill with Mr. Arends.
 Mrs. Boggs with Mr. Harvey.
 Mr. Brooks with Mr. Keating.
 Mrs. Burke of California with Mr. Roncallo of New York.
 Mr. Byron with Mr. Anderson of Illinois.
 Mr. Aspin with Mr. Gubser.
 Mrs. Collins of Illinois with Mr. McClory.
 Mr. Flynt with Mr. Andrews of North Dakota.
 Mr. Fulton with Mr. Frey.
 Mr. Haley with Mr. Cleveland.
 Mrs. Hanson of Washington with Mr. Frelinghuysen.
 Mr. Landrum with Mr. Grover.
 Mr. Gettys with Mr. Ashbrook.
 Mr. McSpadden with Mr. Froehlich.
 Mr. Fuqua with Mr. Clancy.
 Mr. Jarman with Mr. Collier.
 Mr. Leggett with Mr. Bafalis.
 Mr. Gibbons with Mr. Goldwater.
 Mr. Nichols with Mr. Hutchinson.
 Mr. Rees with Mr. Dellenback.
 Mrs. Green of Oregon with Mr. Baker.
 Mr. Jones of Alabama with Mr. Hillis.
 Mr. Reid with Mr. Bell.
 Mr. Riegle with Mr. Lent.
 Mr. Roncalio of Wyoming with Mr. Hinshaw.
 Mr. Roybal with Mr. Blackburn.
 Mr. Sikes with Mr. Dickinson.
 Mr. Stubblefield with Mr. Hunt.
 Mr. Runnels with Mr. Brotzman.
 Mr. Smith of Iowa with Mr. du Pont.
 Mr. Teague of Texas with Mr. Chamberlain.
 Mr. Shipley with Mr. Edwards of Alabama.
 Mrs. Griffiths with Mr. Eshleman.
 Mr. Vigorito with Mr. Fish.
 Mr. Wright with Mr. Kuykendall.
 Mr. Mailliard with Mr. Lott.
 Mr. Mills of Arkansas with Mr. McEwen.
 Mr. Minshall of Ohio with Mr. Nelsen.
 Mr. Peyser with Mr. O'Brien.
 Mr. Railsback with Mr. Quillen.
 Mr. Ruppe with Mr. Schneebeil.
 Mr. Sebelius with Mr. Shoup.
 Mr. Shriver with Mr. Smith of New York.

So (two-thirds not having voted in favor there), the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

(By unanimous consent, Mr. Staggers was allowed to proceed for 5 minutes.)

MR. STAGGERS. Mr. Speaker, I am very sorry that the House has taken the action that they have tonight. We have in this bill the fact

that the EPA cannot effect parking surcharges all over America. **[Sec. 202(b).]**

And when the Members vote this down EPA will have the right to levy parking surcharges in their little towns.

Mr. WHITTEN. Did the gentleman see the conference report that was adopted yesterday or the day before? When the gentleman says the Environmental Protection Agency has authority, he overlooks the restriction in the supplemental report of yesterday, where Congress made clear that funds have not been appropriated for that purpose. Of course, there is a real question of constitutionality involved, too.

I may say if the gentleman will yield further, that we a few moments ago had to vote without knowing what was in the gentleman's bill, without having it explained. Perhaps now that he lost on that vote and his resolution is dead, he will explain it.

Mr. STAGGERS. I will say by killing this bill as we did, we did vote to go backward, instead of trying to conserve energy and do many things to move this Nation forward in the energy field.

I would like to introduce a resolution, and the number of the resolution is House Resolution 760. I have taken this time to tell the House what is in that resolution. It is the same thing that was in the previous resolution with one item taken out, windfall profits.

I would say to the Members that if they vote for this resolution and it will take a two-thirds vote, I believe the Senate will take it and I have every reason to believe the President will take it gladly.

I have no reason to believe otherwise. The windfall profits provision is the only item I know of that the President opposes. When Mr. Simon came, he had three items.

We took care of two of those, and I think this is the last one.

The bill does many things that I do not have the time to go into now, but we talked about them when it was on the floor. We debated it for 3 days, starting at 10 o'clock in the morning and going far into the night. For me to try to repeat all those things would take several hours. I am merely going to ask for this resolution to be brought up with windfall profits provision removed.

Mr. WAGGONER. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from West Virginia just stated he has just introduced a resolution, a House Resolution numbered 760. The gentleman has described House Resolution 760 as having everything in it but windfall profits. The question is: Compared to what?

Mr. STAGGERS. Compared to the one we just voted down.

Mr. WAGGONER. Then, Mr. Speaker, if the gentleman will yield further, I would be happy for the gentleman to tell me and the rest of the Members of the House what we just voted down, because that is the reason it was voted down, because nobody knew what was in it.

Mr. STAGGERS. The gentleman was here for the 3 days we debated it.

Mr. WAGGONER. Yes, sir, for every minute.

Mr. STAGGERS. And I am sure he did pay attention and knew what was in it.

Mr. WAGGONER. Is the gentleman saying that the resolution he has introduced is the bill which passed the House except for windfall profits?

Mr. STAGGERS. No. This is the same as the conference substitute which was brought out by both the House and the Senate with several

exceptions that I mentioned awhile ago. In addition, the windfall profits amendment is now out of the bill.

Mr. RHODES. Mr. Speaker, I thank the gentleman for yielding.

If the resolution which the gentleman now offers is accepted, would it not still be necessary to take some action upon this measure before it could go to the White House? Would we not again be in the position of depending upon a quorum of the Senate and the desire of the Senate to take up this bill?

Mr. STAGGERS. Of course, and I am sure the Senate will accept it.

Mr. RHODES. But if a quorum is not present we will end up with no energy bill at all.

Why does not the gentleman from West Virginia take the Senate bill and bring it to the floor of the House?

Mr. STAGGERS. I have told the gentleman and I have told the House why: because they cut out all the things—I believe the EPA amendments were cut out; I am not sure.

It has in there a termination date so that virtually everything in the bill will have to be reconsidered within 2 months. We will have to do this whole thing all over again. I think that is wrong. I will not do it.

Mr. Speaker, I have said this: I think one of the most objectionable things which many people have said is that I have taken windfall profits out and introduced the bill.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, for several days we considered his original bill and adopted quite a number of amendments. I ask: Are those amendments eliminated from the resolution presented by the gentleman from West Virginia at this time?

I ask the same question another way. Has the gentleman introduced this bill as it originally came from his committee without the amendments adopted by the House? He either did or he did not.

Mr. STAGGERS. It is the conference substitute. I tried to explain that.

Mr. WHITTEN. So the House amendments are out. We understand that much.

Mr. STAGGERS. No. Nearly all of the House amendments are in.

Mr. WHITTEN. Will the gentleman give us some examples of what amendments remain in and what ones he has eliminated.

Mr. STAGGERS. Mr. Speaker, I could not in 1 hour, as I told the gentleman and this House a while ago, explain what we had taken out.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I do not want the House to be under a misapprehension. I think the gentleman from West Virginia misspoke himself.

Mr. STAGGERS. Mr. Speaker, I corrected that.

Mr. BROWN of Ohio. Mr. Speaker, I assume that the environmental measures in this legislation which the gentleman now proposes are the same in the bill that the Senate agreed to, which, if we passed, we could go home.

Mr. STAGGERS. Does the gentleman know what is in the Senate bill?

Mr. BROWN of Ohio. They are the same as what the gentleman is proposing, are they not?

Mr. STAGGERS. Does the gentleman know?

Mr. BROWN of Ohio. I am asking the gentleman.

Mr. STAGGERS. The gentleman is trying to tell me what is in the Senate bill. I do not know everything that is in the Senate bill. I have not had time to study it carefully.

Mr. WAGGONER. Mr. Speaker, I simply ask unanimous consent that the gentleman from West Virginia (Mr. Staggers) the chairman of the committee, be given 5 uninterrupted minutes without questions to explain to the House what is in his House Resolution 760.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. DINGELL. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PROVIDING FOR AGREEMENT TO HOUSE AMENDMENT WITH AN AMENDMENT TO AMEND S. 921, WILD AND SCENIC RIVERS ACT

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and agree to the House Resolution (H. Res. 760) to take from the Speaker's table the Senate bill S. 921, to amend the Wild and Scenic Rivers Act, with a Senate amendment to the House amendment thereto, and agree to the Senate amendment to the House amendment with an amendment.

The Clerk read as follows:

HOUSE RESOLUTION 760

Resolved. That immediately upon the adoption of this resolution the bill S. 921, with the Senate amendment to the House amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the House amendment be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the text of the bill H.R. 12129.

(The text of H.R. 12129 follows:)

A bill to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Title I, II, and III of this Act may be cited as the "Energy Emergency Act".

Sec. 101. FINDINGS AND PURPOSES.

(a) (1) The Congress hereby determines that—

(A) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(B) such shortages have created or will create severe economic dislocations and hardships;

(C) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute an energy emergency which can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(D) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(E) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing energy emergency measures lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act; and

(F) the protection and fostering of competition and the prevention of anti-competitive practices and effects are vital during the energy emergency.

(2) On the basis of the determinations specified in subparagraphs (A) through (F) of paragraph (1) of this subsection, the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

(b) The purposes of this Act are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anti-competitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

Sec. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Emergency Administration.

Sec. 103. FEDERAL ENERGY EMERGENCY ADMINISTRATION.

(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law, a Federal Energy Emergency Administration which shall be temporary and shall be headed by a Federal Energy Emergency Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filled in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under sections 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

Sec. 104. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h) (1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with

the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidence of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) The rule under this subsection shall take effect only if the President finds that without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of section 4(b) of this Act and of the Energy Emergency Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 122 of the Energy Emergency Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax."

Sec. 105. ENERGY CONSERVATION PLANS.

(a) (1) (A) Pursuant to the provisions of this section, the Administrator is authorized to promulgate by regulation one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption and which are authorized by this Act.

(B) No energy conservation plan promulgated by regulation under this section may impose rationing or any tax or user fee, or provide for credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided for in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to the plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, if it has significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b). Any amendment which does not have significant substantive effect and any rescission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b) (3), provision of an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than April 1, 1974.

(b) (1) For purposes of this subsection, the term "energy conservation plan" means a plan promulgated by regulation proposed under subsection (a) of this section or an amendment thereto which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3) (A) If an energy conservation plan is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974,

such plan shall take effect on the date provided in the plan; but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it, passes a resolution stating in substance that such House does not favor such plan, such plan shall cease to be effective on the date of passage of such resolution.

(B) If an energy conservation plan is transmitted to the Congress and provides for an effective date on or after March 1, 1974, and before April 1, 1974, such plan shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(C) An energy conservation plan proposed to be made effective on or after April 1, 1974, shall take effect only if approved by Act of Congress.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise is effective.

(c) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For the purpose of this subsection, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the _____ does not favor the energy conservation plan numbered _____ transmitted to Congress by the Administrator of the Federal Energy Administration on _____, 19—.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution with respect to an energy conservation plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion, to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy conservation plan, it is

at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy conservation plan, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy conservation plan shall be decided without debate.

(d) (1) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions including but not limited to the preparation of an analysis of the effect of such actions on—

(A) the fiscal integrity of State and local government ;

(B) vital industrial sectors of the economy ;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis ;

(D) the economic vitality of regional, State, and local areas ;

(E) the availability and price of consumer goods and services ;

(F) the gross national product ;

(G) competition in all sectors of industry ; and

(H) small business.

(2) The Administrator shall develop analyses of the economic impact of any energy conservation plan on States or significant sectors thereof, considering the impact on energy as fuel and resources as feedstock for industry.

(3) Such analysis shall, wherever possible, be made explicit and, to the extent practicable, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analysis, and all Federal agencies shall cooperate with the Administrator in preparing such analyses except that the Administrator's actions pursuant to this subsection shall not create any right of reviews or cause of action except as otherwise exist under other provisions of law.

(4) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

(e) Any energy conservation plan which the Administrator submits to the Congress pursuant to subsection (b) of this section shall include findings of fact and a specific statement explaining the rationale for each provision contained in such plan.

Sec. 106. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those instal-

lations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance or reliability of service in a given service area. The Administrator shall require that fossil-fueled-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

Sec. 107. MATERIALS ALLOCATION.

(a) The Administrator shall, within 30 days after the enactment of this Act, propose (in the nature of a proposed rule affording an opportunity for the presentation of views) and publish (and may from time to time amend) a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. At such time as he finds that it is necessary to put all or part of such plan into effect, he shall transmit such plan or portion thereof to each House of Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105 and to which section 105(b)(3)(B) applies (except that such plan may be submitted at any time after the date of enactment of this Act and before May 15, 1975).

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

- "(i) fuels, and
- (ii) minerals essential to the requirements of the United States, and for required transportation related thereto,"

Sec. 108. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(1) require, by order or rule, the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery;

(3) require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and

consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10 of the United States Code.

Sec. 109. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 as amended by section 104 of this Act is amended by adding at the end of such section the following new subsection:

"(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect thirty days after the date of enactment of the Energy Emergency Act. Adjustments for such purposes shall take effect no later than six months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."

(b) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

Sec. 111. PROTECTION OF FRANCHISED DEALERS.

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(5) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against

such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraphs (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew, damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

Sec. 112. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users is resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users: *Provided*, That with respect to allocations of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in foreign commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

Sec. 113. REGULATED CARRIERS.

(a) The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commissioner or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975, while continuing to provide for the public convenience and necessity. Each such report shall identify specifically—

- (1) the type of regulatory authority needed;
- (2) the reason why such authority is needed;
- (3) the probable impact on fuel conservation of such authority;
- (4) the probable effect on the public convenience and necessity of such authority; and
- (5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

Sec. 114. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act of such committees and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552(b) (1) and (b) (3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee.

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552(b) (1) and (b) (3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences, or communications from the requirements of subsection (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the

Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or grants, as the case may be, pursuant to this section.

(l) The provisions of section 108 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on May 15, 1975.

(o) The exercise of the authority provided in section 113 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

Sec. 115. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided*, That the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. The Secretary of Commerce, pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2) (A) of such Act, may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this Act and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973: *Provided*, That in the event that the Administrator certifies to the Secretary of Commerce that export restrictions of products enumerated in this section are necessary to carry out the purpose of this Act, the Secretary of Commerce shall impose such export restrictions. Rules under this section by the Administrator and actions by the Secretary of Commerce under the Export Administration Act of 1969 shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be

inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

Sec. 116. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President shall make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

Sec. 117. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of \$5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(i) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type G vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

Sec. 118. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a) (1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title (except with respect to any rule or order pursuant to sections 108 and 113 of this Act, section 205 (a), (b), and (c), of this Act, or section 4(h) of the Emergency Petroleum Allocation Act of 1973) or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, on opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be) as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(5) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this Act or the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule

or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

(b) (1) Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 122 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act. If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of Chapter 89 of title 28, United States Code, Cases or controversies arising under any rule or order of any officer of a State or political subdivision thereof or a State or local board may be heard in either (1) any appropriate State court, and (2) without regard to the amount in controversy, the district courts of the United States.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

Sec. 119. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 113) or to violate any rule, regulation (including an energy conservation plan (or order issued pursuant to any such provision.

Sec. 120. ENFORCEMENT.

(a) Whoever violates any provision of section 119 shall be subject to a civil penalty of not more than \$2,500 for each violation.

(b) Whoever willfully violates any provision of section 119 shall be fined not more than \$5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than \$50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 119, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by section 119.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 119 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

Sec. 121. USE OF FEDERAL FACILITIES.

Whenever practicable, and for the purpose of facilitating the transportation and storage of fuel, agencies or departments of the United States are authorized, during the period beginning on the date of enactment of this Act and ending May 15, 1975, to enter into arrangements for the acquisition or use by domestic public entities and private industries of equipment or facilities which are surplus to the needs of such agency or department and appropriate to the transportation and storage of fuel, except that such arrangements may be made (1) only after the Administrator finds that such equipment or facilities are not available from private sources and (2) only on the basis of compensation for the acquisition or use of such equipment or facilities at fair market value prices or rentals.

Sec 122. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the Federal Energy Emergency Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the make-up of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations as the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to section 103 of this Act.

(b) No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act, or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

Sec. 123. GRANTS TO STATES.

Any funds authorized to be appropriated under section 127(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 122 of this Act, or for the administration of appropriate State or local conservation programs which are the basis of an exemption made pursuant to section 105(e)(2) of this Act from a Federal energy conservation plan which has taken effect under section 105 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

Sec. 124. REPORTS ON NATIONAL ENERGY RESOURCES.

(a) For the purpose of providing to the Congress and the Departments of Interior and Justice, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Attorney General or the Secretary of the Interior, or both, shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil,

natural gas, and coal; (2) production and destination of any petroleum product, gas, and coal; (3) refinery runs byproduct; and (4) other data required by the Attorney General or the Secretary of the Interior for such purpose. Such regulation shall also require that such persons provide to the Attorney General or the Secretary of the Interior such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Attorney General or the Secretary of the Interior shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Attorney General or the Secretary of the Interior may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Attorney General or the Secretary of the Interior. The district courts of the United States are authorized, upon application of the Attorney General or the Secretary of the Interior, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Attorney General or the Secretary of the Interior by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Emergency Administration for the purpose of carrying out this Act, (2) the Attorney General or the Secretary of the Interior (or both) when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

Sec. 125. INTRASTATE GAS.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

Sec. 126. EXPIRATION.

The authority under this title to prescribe any rule or order or take other action under this title, or to enforce any such rule or order, shall expire at midnight May 15, 1975 (April 1, 1974, in the case of section 105), but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975 (April 1, 1974, in the case of section 105).

Sec. 127. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Federal Energy Emergency Agency to carry out its functions under this Act and under other laws, and to make grants to States under section 123, \$75,000,000 for the fiscal year ending June 30, 1974, and \$75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 123, there are authorized to be appropriated \$50,000,000 for the fiscal year ending June 30, 1974 and \$75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 116, there is authorized to be appropriated \$500,000,000 for the fiscal year ending June 30, 1974.

Sec. 128. SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Sec. 129. PRICE AUTHORITY.

The President shall exercise his authority under the Economic Stabilization Act of 1970, as amended, and the Emergency Petroleum Allocation Act of 1973 to

specify prices for sales of crude oil, residual fuel oil or refined petroleum products in or imported into the United States which avoid windfall profits by sellers. For purposes of this section, windfall profits shall be defined as those profits which are excessive or unreasonable, taking into consideration normal profit levels. This section shall be effective only until December 31, 1974.

Sec. 130. IMPORTATION OF LIQUEFIED NATURAL GAS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"Sec. 8. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

Sec. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"ENERGY EMERGENCY AUTHORITY

"Sec. 119. (a) (1) (A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2) (B) and (2) (C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a) (2) or 307(b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b) (1) of this section.

"(4) For purposes of this section:

"(A) The term 'stationary source' fuel or 'emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement,

which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristic thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a) (3).

"(b) (1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source (A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 106(a) of the Energy Emergency Act, or which the Administrator determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (B) which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source.

"(2) (A) Paragraph (1) of this subsection shall apply to a source, only if the Administrator finds that omissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentations of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) for compliance by the means, and in accordance with a schedule, which meets the requirements of subparagraph (B) and (ii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedule shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems necessary to permit such source to burn such coal or coal by-products and to achieve the degree of emission reduction required by the following sentence (which steps and systems must have received prior approval of the Administrator). Such regulations shall also require that the source achieve as expeditiously as practicable considering the type of coal to be used (but not later than January 1, 1979) the same degree of emission reduction as if it was required to achieve by the applicable implementation plan in effect on the date of enactment of this section. Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a) (3).

"(C) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentation of views, to the extent practicable) (i) may, prior to November 1, 1974, and shall thereafter, prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this paragraph.

"(3) For purposes of this subsection, the "air pollution requirement" means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal which this subsection applies shall not be deemed to be a modification for purposes of section 111(a) (2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. No State or political subdivision may require any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than May 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projection of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of costs, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction technology for non-solid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a) (1)).

"(f) (1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a) (1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a) (3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any sources to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (i) (3).

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i) (1) In order to reduce the likelihood of early phaseout of existing electric generating facilities during the energy emergency, and electric generating power

plant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirements.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j)(1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Administration designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under the Energy Emergency Act or the Emergency Petroleum Allocation Act.

"(2) The Administrator of the Federal Energy Administration shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than 45 days after the date of the designation under paragraph (1), unless the Administrator of the Federal Energy Administration determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973."

Sec. 202. IMPLEMENTATION PLAN REVISIONS.

(a) Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B)(1) For any air quality control region in which there has been a conversion to coal under section 119(b), the Administrator shall review the applicable implementation plan and no later than one year after the date of such conversion determine whether such plan must be revised in order to achieve the national primary standard which the plan implements. If the Administrator determines that any such plan is inadequate, he shall require that a plan revision be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan. If a plan provision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a public hearing, promulgate a revised plan (or portion thereof) not later than three months after the date required for approval or disapproval.

"(2) Any requirement for a plan revision under paragraph (1) and any plan requirement promulgated by the Administrator under such paragraph shall

include reasonable and practicable measures to minimize the effect on the public health of any conversion to which section 119(b) applies."

(b) Subsection (c) of section 110 of the Clean Air Act (42 U.S.C. 1857 C-5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2)(A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than May 1, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any applicable implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from the approving of such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

"(D) For purposes of this paragraph, the term 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations. The term 'preferential bus/carpool lane' shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses and/or carpools."

Sec. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were

prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b)(5)(A) of such Act is amended to read as follows:

"(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b)(5)(B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

Sec. 204. CONFORMING AMENDMENTS.

(a) (1) Section 113(a)(3) of the Clean Air Acts amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "(hazardous emissions)" the following: ". or 119(f) (relating to priorities and certain other requirements)".

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119 (b), (c) and (e)," before "209".

Sec. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of \$3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under this Act shall, for a period of one year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this act which will be in effect for more than a one year period (other than action taken pursuant to subsection (d) of this section) or any action to

extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(d) Notwithstanding subsection (c) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.

Sec. 206. ENERGY CONSERVATION STUDY.

(a) The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption tradeoff which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses, and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a) (2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

Sec. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

Sec. 208. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"Sec. 213. (a) (1) The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works and Commerce of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of a new motor vehicles per unit of fuel consumed, as determined for each manufacturer in accordance with test procedures established by the Administrator pursuant to this Act. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

TITLE III—STUDIES AND REPORTS

Sec. 301. AGENCY STUDIES.

The following studies shall be conducted, with resorts on their results submitted to the Congress:

(1) Within 30 days after the date of enactment of this Act:

(A) The Administrator of the Federal Energy Emergency Administration shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) All Federal departments and agencies including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(D) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

The SPEAKER. Is a second demanded?

Mr. HOSMER. Mr. Speaker, I am opposed to the bill and demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DINGELL. Mr. Speaker, is the gentleman from California opposed to the bill?

Mr. HOSMER. Mr. Speaker, I just said that I was opposed to the bill.

Mr. DINGELL. Mr. Speaker, I just wanted to hear the gentleman say it.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, I make a point of order against this resolution because it, in effect, does nothing more than call up a matter that has already been voted on within the last half hour by this House.

Anyone who says it is not to the contrary has no authority, because no one has read it and we do not know the substance.

The SPEAKER. The Chair has read the resolutions, they have been read to the House, and the Chair has authority to recognize for motions to suspend the rules.

There are substantial differences, and the Chair has recognized the gentleman from West Virginia.

Mr. BAUMAN. Mr. Speaker, then I would like to request under the rules that it be read to the House.

The SPEAKER. It has been read. It has been read. If the gentleman wants the resolution rereported, the Chair will put the request.

The gentleman from West Virginia will be recognized for 20 minutes; the gentleman from California will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Speaker, we have copies of this report. There are plenty of them here, and every Member can get one, I am sure, and take a look at what is in the bill.

We made two changes as to what is in the conference report.

Mr. Speaker, I think that the bill has been discussed enough, but I will take just a minute or so to say that this is the conference report, with some deletions, that we are familiar with. Some things have been taken out, and I will go over them again, and then I will point out that we have further deleted one other section of the bill: windfall profits.

Mr. McKINNEY. Mr. Speaker, I will ask the chairman of the committee; is it true that the conference report was available this morning for any Member who wanted to make the effort to get it sometime today?

Mr. STAGGERS. Sometime during the day, yes, sir.

Mr. McKINNEY. Right.

Mr. STAGGERS. Probably sometime this morning.

Mr. McKINNEY. Well, I had a copy of most of it by, I believe, as it was received from the committee.

Mr. STAGGERS. Yes, sir.

Mr. McKINNEY. Mr. Speaker, it is also true, is it not, as the gentleman explained at the time of the first vote we took which failed, that his motion was relative to that conference report, minus a few changes, which he outlined?

Mr. STAGGERS. The gentleman is correct.

Mr. McKINNEY. And at this particular time the gentleman is making one more change, which would allow the oil companies to make the profits which they have been making?

Mr. STAGGERS. The gentleman is correct.

Mr. McKINNEY. Mr. Speaker, is it also true, I will ask the chairman of the committee, that nobody has seen the Senate bill, and that the Senate came out with a bill that did not come from the House or from the conference committee, and the basic bill gives the President the power, with information locked away from the Congress?

Mr. STAGGERS. The gentleman is correct.

Mr. MILFORD. Mr. Speaker, I am forced to rise in protest and vote "no" on this measure. I must vote in this manner because I simply do not know what is in this bill.

My total input of information, concerning the contents of this conference report and this bill, has been obtained by reading the Washington Post. Even the Washington Post does not know the entire contents of the bill.

My constituents did not send me to the Congress to vote "blind" on bills that come before the House, nor did they send me here to make important legislative decisions according to what is printed in the *Washington Post*.

My remarks are not made for the purpose of chastising any of my House colleagues, nor the Commerce Committee, nor my former colleagues in the press. I am simply and honestly addressing myself to the situation, concerning this bill, and the past events that have actually occurred.

Mr. Speaker, surely everyone recognizes that this is a very important and far-reaching measure. It is probably the most important bill to come on to this floor since World War II. This measure will directly affect every individual American, every business and every institution in this Nation. A vast new government bureaucracy is being created with unprecedented powers. This is a very complex bill.

Other than about a half-dozen joint conferees, there is not a single Member of this House that knows the contents of the bill that is before us. I cannot possibly vote for any bill under these circumstances. Furthermore, I protest the procedures and tactics under which this legislation was written and moved on to the floor.

The history of this piece of legislation reveals that we started with a deadline—Christmas adjournment. The House leadership classified this bill as "emergency legislation." Many Members did not agree with that classification, pointing out that the President had already been given authority to allocate fuel and to impose rationing, along with other powers necessary to conserve energy. We simply ask, "What is the emergency?"

Nonetheless, the Energy Emergency Act was introduced on November 13, 1973 and was reported out by the Commerce Committee in less than 1 month. It was very apparent to every Member that the imposed deadline, rather than careful consideration, was the determinate factor in getting the bill out of the Commerce Committee. In private conversations with committee members, I was shocked to learn the details of the committee's work.

During committee markup, I learned that over 100 amendments were offered. Well over half of these amendments were debated under a 10-minute time limitation. Over 30 amendments were debated with a 1-minute limitation. Obviously, under such circumstances, the committee had not given full consideration to all factors.

Immediately following Commerce Committee consideration, the bill was rushed to the Rules Committee. A rule was obtained wherein the required 3-day rule was waived and the bill was brought directly to the floor. Most important, no Member was able to see a copy of the bill until floor debate was started.

Mr. Speaker, as you well know, it is impossible for anyone to read a complicated legal bill while also listening to debate. Therefore, no Member was able to study and analyze the bill prior to debate. No Member could intelligently debate the bill.

Furthermore, the bill was brought on to the floor with a procedure that severely limited floor amendments by any member other than those who were on the Interstate and Foreign Commerce Committee. The fact that a very large number of amendments were introduced by committee members, while the bill was on the floor, provided evidence that the committee work had been incomplete.

During floor debate, over 100 amendments were offered. Only a very few were accompanied by meaningful debate. Over half of the amendments were read without any debate, without members having copies to study, without any discussion or explanation of the amendments, and with little or no understanding on the part of Members.

In the Joint Senate-House conference committee, according to the Washington Post, the bill was completely rewritten. It saddens me to have to use a daily newspaper as my only source of information, but that is the only source that I have. Even now as we consider the conference report, no Member has a copy of the bill nor the conference report, nor the Senate amendments. No member has the slightest idea about what he is voting on.

Mr. Speaker, I cannot vote in this manner. Furthermore, I protest this kind of procedure and I refuse to be a part of it.

As a freshman Member, I am willing to be guided by our experienced House leadership. If the leadership classifies this bill as "emergency legislation", I will be glad to give it full consideration. However, when I say "full consideration," I mean just that. I am not willing to vote blind on any bill just because a few senior Members say that it is important, even though I respect them very highly. To vote in such a manner would be a violation of the trust placed in me by my constituents.

I am willing to return to the House immediately after the Christmas holiday and work on this legislation. Or for that matter, I am willing to stay here during the holiday.

But, Mr. Speaker, I am totally unwilling to vote for this bill without having read a single word of its contents and without having an opportunity to carefully study the ramifications that it might have on my constituents.

Mr. RHODES. Mr. Speaker, will the gentleman yield for what I think will be a correction?

Mr. STAGGERS. Yes, I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, as I understand the gentleman's bill and the Senate bill, the Senate bill provides for a veto on the part of the House and the Senate for conservation measures. It is not like the Gulf of Tonkin resolution which the gentleman from Connecticut mentioned. There are provisions for vetoes in the Senate bill.

Mr. STAGGERS. The gentleman is correct.

But I might say, Mr. Speaker, that is true, with the exception of the one thing, that there is no veto on the rationing in the bill at all.

As far as the other sections are concerned, I will go over them once more.

Section 103 has been amended to eliminate provisions which freed the Administrator of the Federal Emergency Energy Administration from various OMB controls.

Section 105, relating to emergency conservation regulations, has been changed to limit the duration of any regulation to April 1, 1974.

Section 124, which proposed to give the Administrator authority to call for reports on emergency reserves, has been amended to give this authority instead to the Department of Justice and the Department of the Interior of the United States.

Then **section 110**, dealing with windfall profits, has now been deleted.

There are no other changes from the conference report.

Mr. HOSMER. Mr. Speaker, I am going to yield time to two speakers. I wish now to yield 6 minutes to the gentleman from North Carolina (Mr. Ruth).

Mr. RUTH. Mr. Speaker, I would like to explain to my colleagues why it would be a mistake to adopt this resolution or any other resolution or the conference report.

I recall a story about a baseball player who was playing third base, and he made three errors in a row, one on a fly ball, one on a ground ball, and another on a throw.

So the manager took him out and played third base himself. Then the manager made two errors, and he came to the dugout and said, "You have got third base so messed up that nobody can play it."

I do not know what is in this resolution, and I do not think I am alone in that.

With all respect to the chairman of the committee, he just made a remark that he did not know whether EPA was in this, and if he does not know what is in it, then who does?

Let us take a look, Mr. Speaker, at how this baseball game parallels this bill. We agreed that the bill was prepared hurriedly. We were not sure what would be best for the country, but our primary propelling force was that something was expected of us, so we are going to give them something whether we know what it is or not.

We tried to write the bill on the floor. I have always told my constituents that bills were prepared in the committee, and I found out I was right. We prepared it in the Committee of the Whole House, so I am considering putting on my stationery that I am on the Committee of the Whole House on the State of the Union.

Then we wanted to make sure we never got any glimpse of our objective.

So we started voting on the amendments without having them explained. We stayed in the dark.

Now we are being asked again to vote on something without any knowledge of what it is. Now, I voted "present" on most of the amendments, and there was a whole group of Members who did likewise because we did not know what was going on. I had never voted "present" before, but I had to do so this time.

I voted "aye" on final passage so that the Members of the conference could clean up the bill. Well, they really cleaned it up. They took the antibusing amendment clean out of it. Of course, this had passed the House twice, and only failed in the Senate by one vote.

The bill has no accommodation from ecology, none at all. We are going to have the prettiest, cleanest, cold, and broke country in this world, with few jobs, but all of them safe—and no way to get to them.

Now, more importantly than our overreaction to ecology and safety in bringing this energy crunch to the place we now have it, is our interference with free enterprise system. We became the land of plenty through free enterprise. Controls have helped put us where we are today. Also we get duped by titles. We call this an energy bill. We might just as well call it a nonenergy bill. It guarantees scarcities and it encourages strikes, which we have been seeing develop all over the country.

The biggest problem that I have seen us face in this House is to eradicate bad legislation, and I have not seen it in the 5 years I have been present here.

So if you have any doubts about what is in the bill, I encourage you to vote against it.

I would like to close with just one other little story—not because it is new, but because it is so apropos:

There was an individual who was extremely successful, so successful that a young man went up to him and said, "To what do you attribute your success?" And he said, "Young man, I cannot give you the formula for success, but I can tell you the formula for failure, and that is to try to please everybody."

Mr. DINGELL. Mr. Speaker, I rise to pay tribute to my friend and colleague, the gentleman from West Virginia, Hon. Harley Staggers. The gentleman has proceeded with great patience and great caution through great difficulty. He has worked night and day, in committee and in conference and on the floor, and this body owes him a vote of confidence in sincere tribute for his earnest, able, and honorable efforts on behalf of this body. He has been a man of not only patience and great integrity, but he has worked hard and he has done his best. The House, I think, has done its best, and I think that the other body—I must say with regret—has done its worst.

The question before us now, tonight, is simply whether we are going to write a bill that is going to carry out the agreements honorably made between this body and the other body, or whether we will supinely let a small group of willful men over there dictate to the country, to the Senate, and to the House, by the utilization of the filibuster, alone, as to what shall go into this legislation.

The question is not what the issue is, because the issue is a very simple one. We brought this legislation to you. We explained it clearly in the conference report. We brought the legislation to you, and it was explained clearly in other papers presented to the body. And this legislation has been rather clearly explained in the discussion before us.

But the fact of the matter is that what is involved here is really very simple, and that is whether or not this body is going to lay down, roll over and play dead for the other body and for the oil companies.

As I say, what is at issue here is a very simple thing: Profits for the oil companies, windfall profits, if you please—not the ordinary level of profits, but whether they should be able to continue to double, redouble, and double again their profits in the forthcoming years, as they have been doing in the time of this crisis. That is what is at stake.

And, in the case of the oil companies, we will find that, while everybody else is asked to tighten their belts, to conserve, give up driving, and other luxuries and necessities, the oil companies are making a killing.

Now, it should be understood that there is an abundance of legislation on the books.

Affording the President authority to allocate, to ration and to meet the crisis in the energy field.

If we forego the opportunity here, all we will have is a vote on special interest, oil industry, dictated legislation.

Let us legislate indefinitely and put forward worthwhile legislation meeting the public need.

I have loyally supported this legislation, partly out of respect for my chairman, partly out of the fact that there were good things in it, and partly out of an awareness that politically we are going to be denounced by the man in the White House if we do not go for this legislation.

But the hard fact of the matter is that the President right now has authority to control prices and profits. The President right now has authority fully to allocate fuels. The President has authority right now to ration. The other things in this bill are mostly only vague in character and can be considered when we return.

What I would suggest to my colleagues is to vote "no" on this legislation at this time, as I intend to do. Let us go home. Let us see what the people think. Let us have a time to consider this legislation before us with more care. Let us adjourn, and let us vote this legislation down and come back and get worthwhile legislation that will control windfall profits. Let us legislate under conditions more productive of the public interest and less of special interest service.

Mr. ROE. Mr. Speaker, I have listened intently to the hearts and the minds and the souls of the people who have spoken here tonight. I do not believe there is anyone in this House, man or woman, who has spoken against his country. But would it be so wrong to call upon the Members' attention to remember one thing. Who is the master and who is the governed? There is one thing that is important to all of us tonight, and that is what about the people of America? We have spoken loudly and clearly about vested interests, and who hurts whom. But the important thing that the American people are talking about is not windfall profits or who is going to get what out of this bill. The American people are asking us to do one thing on Christmas Eve: "For God's sake, do something for us," the 230 million people strong who look to our eyes and our hearts to be human beings and fulfill the responsibility that we accepted when we ran for public office.

We said to them, "Come vote for us because we want to go to the House of Representatives and we want to go to the Senate, and we want to speak for our people, because we believe in our country and we believe we can help our people."

All of this debate has been about can we or can we not? Are we capable? There are 435 people strong in this House who can speak and say it as it ought to be said. The American people are saying one thing to us. They are not talking about whose ox is gored. They are asking us to do one simple, basic thing: Give us equity; give us fair play; give us an opportunity to be part of this country; yes, speak for us. Yes, go home. Yes, tell us what you did on Christmas Eve for your country.

Merry Christmas, Mr. Speaker, what we ought to do is sit down, with reasonable, decent people who want to help to resolve this critical problem. I want to go home to my people and not talk about oil, not talk about who failed or who won or lost. I want to vote for a bill, but I want to vote for a bill that is fair to John Q. Public Citizen, the decent people who are making this country run and not politicians.

Mr. CAREY of New York. Mr. Speaker, I served on the Interior Committee of this House for 10 years, during which time I joined with

the gentleman from Massachusetts (Mr. Conte) and many others to warn of the dangers of the oil import program. I wrote a minority report back in 1968 indicating we were getting into this fix. It had to happen because of the oil import quota system. No one listened then. Please listen now.

Mr. Simon, who has undertaken the responsibility of controlling the energy shortage, needs some legislative enactment to conduct the program. This is our last chance to act before that shortage becomes more severe and unmanageable. It is later than we think.

Mr. Speaker, I served for most of my adult life after I graduated from law school in the energy field. I know how serious this situation has become. We have already lost the opportunity to cope with the shortage through more than 20 percent of the heating season. If we drag on, the worst season will be upon us. The heating and lighting and power shortage will hit harder in January and February and March. The people will blame the Congress that went home in December without doing something about it.

Mr. Speaker, this is our last chance to meet the light, heat, and power shortage that is bound to occur.

If we are worrying about excess profits, I sit now on the Committee on Ways and Means. Chairman Mills of that committee has said he is going to bring forth a tax measure that will cope in a proper way with excess profits. That can only be done by an exact accounting system conducted by the IRS, and that is not in any bill. Product shortage and profit shortage are separate problems and should be handled that way.

Give the Committee on Ways and Means a chance when it sits in January to look at the profits structure and come out with a bill that we can pass on both sides to allow that there is a reasonable profit but no excess profits. That is when we can do that but tonight is the night to cope with the shortage that is going to occur in the first quarter of 1974. If we do not do this, Congress will have failed to meet the duty that we have to do to cope with the shortage. Give Mr. Simon a chance to conduct this program.

If you defeat this bill the only alternative is the Senate bill and that I fear is an unknown quantity and probably unacceptable.

The next vote is our last chance to get a temporary bill to carry us through this winter. Let us not miss that chance.

Mr. HOSMER. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona, the minority leader (Mr. Rhodes).

Mr. RHODES. Mr. Speaker, I dislike opposing the latest proposal offered by the gentleman from West Virginia. He has certainly tried and tried very diligently to get a bill and I am going to help him get a bill. But I cannot help him this way for one very simple reason.

I just called the distinguished minority whip of the Senate. He tells me that there is no chance there is a quorum of the Senate in this city tonight. He says there is a chance that there might be one tomorrow but he is not sure at all that there will be one.

Let me understand this. This bill is just about the same as the bill which we voted down previously. We voted it down because we wanted a law, and I think most of us understood that the only way we can be sure of getting a law and getting one tonight in a form which deals

effectively with the energy crisis is to take the Senate-passed bill, pass it, and send it to the President.

So Mr. Speaker, I ask that once again there be a "no" vote on this proposal and that we then if the gentleman from West Virginia is willing to give us a vote on the Senate bill, see whether we want to take it or whether we do not. I think it is time to do that.

Mr. STAGGERS. Mr. Speaker, I want to say to the gentleman again if we take this Senate bill, which I cannot do, it denies this Congress from knowing what is going on in this legislation, and how can we legislate when we do not know?

Mr. RHODES. Mr. Speaker, I respectfully have to differ with the gentleman from West Virginia. I do not know what there is about this bill which shuts off our right to know. Will the gentleman explain?

Mr. STAGGERS. Yes. In our bill we ask for certain things to be revealed so we can legislate in the area with knowledge. If we do not know, we cannot.

Mr. RHODES. But the gentleman from West Virginia knows well that the bill which passed the House and passed the Senate is still in conference, and if the gentleman desires to take it out of conference after January 21 he can do so and provide for these reports.

Mr. STAGGERS. Let me say I am not going to take up the Senate bill which will deny to this House knowledge which we need to have to legislate in an area where we do not know what we are doing.

Mr. RHODES. I just cannot lend credence to the proposition that the gentleman from West Virginia would deny this House the only chance it has to pass an adequate bill before we go home. The country needs it, our constituents are entitled to it.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the majority leader.

Mr. O'NEILL. Mr. Speaker, has the time come when we accept the statement of the minority leader that we should act on the basis of what is the feeling of the minority whip of the Senate? In other words, this House should act tonight because the Senate minority leader says something?

Mr. RHODES. I did not say that. I said the minority whip of the Senate said there is no doubt there is no quorum tonight and there is a doubt there will be one tomorrow.

Mr. O'NEILL. I have been told in the Senate that there is a quorum available.

Mr. RHODES. If the gentleman wants to spend Christmas in this Chamber I will spend it with him.

Mr. ROY. Mr. Speaker, I want to thank the chairman for making this resolution available to the House to vote upon because I think it gives each of us a chance to say clearly how we feel about windfall profits, because this is the only difference between the previous one and this one.

We cannot wait for the Senate Finance and the Ways and Means Committees to act with respect to windfall profits. I have reason to believe that at this time there are tens of millions of dollars in excess, unreasonable, and windfall profits going to the oil companies each day and hundreds of millions of dollars each week, and billions of dollars each month. Why?

Just this week Secretary of the Treasury Mr. Shultz proposed that we tax crude oil only on increase above the base price, that is the price reflecting a reasonable and normal profit. He proposed, we not tax the first 25 cents that we tax the next 35 cents at a rate of 10 percent and so until after \$2.5 above base we levy at tax of 85 percent. He estimated this tax on excess profits on crude oil alone would bring into the Treasury of the United States an estimated \$3 to \$5 billion during the first year.

I want to submit to my colleagues that the excess profits retained by the oil companies would be multiples of that \$3 to \$5 billion it is estimated would accrue to the Treasury of the United States under the proposal floated 2 days ago by the Secretary of the Treasury.

I do not think we can wait while such profits pile up. I think we must now direct the President to specify prices to avoid windfall profits. Moreover, there has to be a remedy and a definition and for this reason I urge vote of "no" on this resolution which strikes windfall profit reduction.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, we are informed that the Ways and Means Committee and the Senate Finance Committee are going to consider this matter of windfall profits. The man who is filibustering the legislation before us in the Senate right now is the chairman of the Senate Finance Committee. He is opposed to putting controls on oil company profits. How much chance does this show there is for fair consideration of fair excess profits tax legislation at any early time. The answer is not much. Not much at all.

Mr. MACDONALD. Mr. Speaker, I thank the gentleman for yielding to me.

I am pragmatic enough to know that I am not going to change any minds, and I am not about to try to do that.

However, I would like all the Members to know, who have not had the opportunity to serve, as I have, with our chairman of the Interstate and Foreign Commerce Committee and seeing him work day in and day out with his whole heart and his whole soul, with every ability at his command, they can have nothing but the highest respect for the man Harley Staggers.

Mr. Speaker, it does ill repute to anyone in this body to derogate in any way any such man. We should be proud to have him, as I am, among our membership.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers) that the House suspend the rules and agree to the House resolution (H. 760).

The question was taken, and the Speaker announced that the yeas appeared to have it.

RECORDED VOTE

Mr. STAGGERS. Mr. Speaker, on that I demand a recorded vote.
A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 22, noes 240, not voting 170, as follows:

[Roll No. 722]

AYES—22

Andrews, N.C.
Bennett
Breaux
Broyhill, N.C.
Carey, N.Y.
Foley
Fraser
Hamilton

Hastings
Henderson
Hicks
Long, Md.
McFall
Mollohan
O'Hara
Passman

Perkins
Preyer
Robison, N.Y.
Staggers
Stratton
Taylor, N.C.

NOES—240

Abdnor
Adams
Alexander
Annunzio
Archer
Armstrong
Ashley
Badillo
Barrett
Bauman
Beard
Bergland
Biester
Blatnik
Boland
Bowen
Brademas
Bray
Breckinridge
Brinkley
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Carter
Casey, Tex.
Cederberg
Chappell
Clark
Clausen, Don H.
Clawson, Del
Clay
Cochran
Cohen
Conable
Conlan
Conte
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.

Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellums
Denholm
Dennis
Derwinski
Dingell
Donohue
Dorn
Downing
Drinan
Duncan
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Fascell
Findley
Fisher
Flood
Flowers
Ford, William D.
Forsythe
Fountain
Frenzel
Gaydos
Gaiimo
Gilman
Ginn
Gonzalez
Goodling
Gray
Green, Pa.
Gude
Gunter
Guyer
Hammerschmidt
Hanley
Hauahan
Hansen, Idaho
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hogan

Holifield
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Ichord
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Koch
Kyros
Latta
Litton
Long, La.
McCloskey
McCollister
McCormack
McDade
McKay
McKinney
Macdonald
Mahon
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinisky
Milford
Miller

Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Morgan
Mosher
Myers
Natcher
Nedzi
Obey
O'Neill
Owens
Parris
Patman
Patten
Pepper
Pettis
Pickle
Pike
Powell, Ohio
Price, Ill.
Pritchard
Quie
Randall
Rangel
Regula
Reuss

Rhodes
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Roush
Roy
Ruth
St Germain
Sandman
Sarbanes
Satterfield
Schroeder
Seiberling
Shuster
Skubitz
Slack
Spence
Stanton, J. William
Stanton, James V.
Steele
Steelman
Steiger, Wis.
Stokes
Stuckey
Studds

Symington
Symms
Talcott
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Vander Jagt
Vanik
Waggonner
Waldie
Wampler
Whalen
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Zablocki

NOT VOTING—170

Abzug
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Arends
Ashbrook
Aspin
Bafalis
Baker
Bell
Bevill
Biaggi
Bingham
Blackburn
Boggs
Bolling
Brasco
Brooks
Brotzman
Burgener
Burke, Calif.
Burton
Butler
Byron
Camp
Carney, Ohio
Chamberlain
Chisholm
Clancy
Cleveland

Collier
Collins, Ill.
Collins, Tex.
Conyers
Corman
Cotter
Daniels, Dominick V.
Danielson
Delaney
Dellenback
Dent
Devine
Dickinson
Diggs
Dulski
du Pont
Edwards, Ala.
Eshleman
Evins, Tenn.
Fish
Flynt
Frelinghuysen
Frey
Froehlich
Fulton
Fuqua
Gettys
Gibbons
Goldwater
Grasso
Green, Oreg.

Griffiths
Gross
Grover
Gubser
Haley
Hanna
Hansen, Wash.
Harrington
Harsha
Harvey
Hays
Hébert
Heinz
Hillis
Hinshaw
Holt
Hunt
Hutchinson
Jarman
Johnson, Colo.
Jones, Ala.
Keating
Kluczynski
Kuykendall
Landgrebe
Landrum
Leggett
Lehman
Lent
Lott
Lujan

McClory	Reid	Stephens
McEwen	Riegler	Stubblefield
McSpadden	Roncalio, Wyo.	Sullivan
Madden	Roncallo, N.Y.	Taylor, Mo.
Madigan	Rooney, N.Y.	Teague, Calif.
Mailliard	Rostenkowski	Teague, Tex.
Martin, Nebr.	Rousselot	Van Deerlin
Michel	Roybal	Veysey
Mills, Ark.	Runnels	Vigorito
Minshall, Ohio	Ruppe	Walsh
Moorhead, Pa.	Ryan	Ware
Moss	Sarasin	White
Murphy, Ill.	Scherle	Whitehurst
Murphy, N.Y.	Schneebeli	Widnall
Nelsen	Sebelius	Wiggins
Nichols	Shipley	Williams
Nix	Shoup	Wilson, Bob
O'Brien	Shriver	Wolff
Peyser	Sikes	Wright
Poage	Sisk	Wydler
Podell	Smith, Iowa	Wyman
Price, Tex.	Smith, N.Y.	Yates
Quillen	Snyder	Young, Tex.
Railsback	Stark	Zion
Rarick	Steed	Zwach
Rees	Steiger, Ariz.	

So (two-thirds not having voted in favor thereof) the motion was rejected.

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Arends.
 Mr. Hays with Mr. Harvey.
 Mr. Bevill with Mr. Heinz.
 Mr. Harrington with Mr. Gubser.
 Mr. Anderson of California with Mr. Brotzman.
 Mr. Gibbons with Mr. Frelinghuysen.
 Mrs. Collins of Illinois with Mr. Danielson.
 Mr. Biaggi with Mr. Anderson of Illinois.
 Mrs. Hansen of Washington with Mr. Eshleman.
 Mr. Aspin with Mr. Collier.
 Mr. Gettys with Mr. Blackburn.
 Mrs. Chisholm with Mr. Corman.
 Mrs. Boggs with Mr. Andrews of North Dakota.
 Mr. Evins of Tennessee with Mr. Fish.
 Mr. Bingham with Mr. Cleveland.
 Mr. Fuqua with Mr. Edwards of Alabama.
 Mr. Delaney with Mr. Ashbrook.
 Mr. Flynt with Mr. Frey.
 Mrs. Burke of California with Mr. Butler.
 Mr. Dent with Mr. Froehlich.
 Mr. Brasco with Mr. Bafalis.
 Mr. Fulton with Mr. Dellenback.
 Mr. Carney of Ohio with Mr. du Pont.
 Mr. Byron with Mr. Camp.
 Mr. Hanna with Mr. Devine.
 Mr. Haley with Mr. Clancy.
 Ms. Abzug with Mr. Burton.
 Mrs. Grasso with Mr. Goldwater.
 Mr. Dominick V. Daniels with Mr. Baker.
 Mr. Cotter with Mr. Dickinson.
 Mrs. Griffiths with Mr. Grover.
 Mr. Brooks with Mr. Chamberlain.

Mrs. Green of Oregon with Mr. Bell.
 Mr. Diggs with Mr. Dulski.
 Mr. Conyers with Mr. Leggett.
 Mr. Hébert with Mr. Collins of Texas.
 Mr. Jarman with Mr. Hillis.
 Mr. Jones of Alabama with Mr. Keating.
 Mr. Kluczynski with Mr. Hutchinson.
 Mr. Landrum with Mr. Lott.
 Mr. Mills of Arkansas with Mr. McEwen.
 Mr. McSpadden with Mr. Hinshaw.
 Mr. Lehman with Mr. Martin of Nebraska.
 Mr. Moorhead of Pennsylvania with Mr. Lent.
 Mr. Moss with Mr. Michel.
 Mr. Madden with Mrs. Holt.
 Mr. Nichols with Mr. Minshall of Ohio.
 Mr. Murphy of Illinois with Mr. Lujan.
 Mr. Podell with Mr. Kuykendall.
 Mr. Rarick with Mr. O'Brien.
 Mr. Murphy of New York with Mr. Hunt.
 Mr. Rees with Mr. Madigan.
 Mr. Riegle with Mr. Peyser.
 Mr. Nix with Mr. Nelsen.
 Mr. Reid with Mr. Landgrebe.
 Mr. Roncalio of Wyoming with Mr. Mailliard.
 Mr. Rooney of New York with Mr. Price of Texas.
 Mr. Rostenkowski with Mr. Quillen.
 Mr. Roybal with Mr. Railsback.
 Mr. Shipley with Mr. Roncallo of New York.
 Mr. Sisk with Mr. Sarasin.
 Mr. Runnels with Mr. Rousselot.
 Mr. Smith of Iowa with Mr. Steiger of Arizona.
 Mr. Sikes with Mr. Scherle.
 Mr. Stark with Mr. Ruppe.
 Mrs. Sullivan with Mr. Shoup.
 Mr. Ryan with Mr. Smith of New York.
 Mr. Steed with Mr. Schneebeli.
 Mr. Teague of California with Mr. Taylor of Missouri.
 Mr. Stephens with Mr. Snyder.
 Mr. Teague of Texas with Mr. Sebelius.
 Mr. Stubblefield with Mr. Shriver.
 Mr. Van Deerlin with Mr. Walsh.
 Mr. Wolff with Mr. Ware.
 Mr. Vigorito with Mr. Whitehurst.
 Mr. White with Mr. Bob Wilson.
 Mr. Wright with Mr. Wiggins.
 Mr. Yates with Mr. Williams.
 Mr. Zion with Mr. Wydler.
 Mr. Zwach with Mr. Wyman.
 Mr. McClory with Mr. Harsha.
 Mr. Young of Texas with Mr. Widnall.

The result of the vote was announced as above recorded.

**PROVIDING FOR AGREEING TO SENATE AMENDMENT TO HOUSE AMEND-
 MENT WITH AN AMENDMENT TO AMEND S. 921, WILD AND SCENIC
 RIVERS ACT**

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and agree to House resolution (H. Res. 761) to take from the Speaker's table the Senate bill S. 921, to amend the Wild and Scenic Rivers Act, with a Senate amendment to the House amendment thereto, and agree to the Senate amendment to the House amendment with an amendment.

The Clerk read as follows :

H. RES. 761

Resolved, That immediately upon the adoption of this resolution the bill S. 921, with the Senate amendment to the House amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment be, and the same is hereby, agreed to.

The SPEAKER. Is a second demanded?

Mr. DINGELL. Mr. Speaker, I demand a second, and I demand tellers.

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER. Is the gentleman opposed to the resolution?

Mr. BAUMAN. I am.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from West Virginia (Mr. Staggers) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. Bauman) will be recognized for 20 minutes.

Mr. STAGGERS. Mr. Speaker, I again rise and say that it has been a trying situation and an emotional situation. I have now come to the point of offering the bill sent over by the Senate for the consideration of the House.

Mr. BROYHILL of North Carolina, Mr. Speaker, I know that the hour is getting late, and we have had a trying session tonight. To say that the session has been confused is an understatement, but I believe this country is looking to us for some leadership.

This bill, if we can pass it, can go to the President's desk. He can sign it. Actually, the bill that we are about to vote upon, I note, is not going to be defended by the chairman. It looks as though I am the only one here who has to do it.

We have the Energy Emergency Act that is contained in the conference report. We are in this situation. If we want a bill, this is the bill that we can send to the President's desk tonight. **Title I** of the Senate-passed bill is the same as in the conference report, except that **title I** expires in the Senate-passed bill, the bill that we are considering right now, on April 1, 1974, rather than May 15, 1975, as in the conference report bill. In addition, the Senate-passed bill eliminates **section 110** which was in the conference report, which was the so-called windfall profits section. In addition, in **section 124**, the Senate-passed bill said that in the energy resources report section, the authority to obtain these reports would be vested in the Department of Justice and the Department of the Interior.

Also, there is a change in **section 103** which creates the Federal Energy Administration, and that is to strike **subsection (d) of section 103** which is in the conference report. This refers to certain reporting requirements of the Federal Energy Administrator.

I know there is controversy here, but it seems to me that we have a chance to act to do something about the crisis which is before us.

The bill that is before us has the same procedures as the conference report, copies of which are available to the Members, that is, that energy conservation plans that are promulgated and implemented by the Administrator would be subject to review, would be subject to oversight, would be subject to the 15 legislative days disapproval procedure, the same thing that is in the conference report.

It seems to me that this is a reasonable compromise. There are some, including the administration, who said that they wanted these energy conservation plans implemented without any congressional oversight. This bill, it seems to me, would be a reasonable compromise in recognizing the need for congressional partnership, one might say, in implementing these energy conservation plans.

I would think that the House would want to act on this bill tonight in order to send it to the President's desk, have it signed, get this issue out of the way, and, above all, see that these programs that are contained on this bill, particularly those in **title II** relating to emission standards, relating to auto emissions as well as stationary emissions, be put into effect expeditiously and not wait another several months to pass another bill.

Mr. HOSMER. Mr. Speaker, I thank the gentleman very deeply and sincerely for saying such nice things about my scenic rivers bill. I hope everybody will vote for it tonight.

Mr. MILFORD. Mr. Speaker, I congratulate the gentleman in the well. He holds in his hands a conference report which my staff has been trying to obtain all day long today and was unable to. I understand the gentleman wants this House to vote on the bill which none of us has ever seen and on a conference report which none of us has ever seen.

Mr. BROYHILL of North Carolina. I will say the conference reports are available here. I see Members who have had conference reports today.

This bill is of course complicated. I do not know how the gentleman voted when the bill came out of the House, but, speaking for one who has lived with this bill for the last month, I say that the Senate-passed bill is a workable bill, it is one in which we can get some action on this energy crisis, and we can do it now and not delay until next year.

I hope the gentleman will support his bill. To do otherwise means further delay.

Mr. KETCHUM. Mr. Speaker, is **section 103** in the bill, the allocations section?

Mr. BROYHILL of North Carolina. The allocations section is in **section 104**.

Mr. BROYHILL of North Carolina. **Section 104** is the rationing section. I might say what this section does is this. The President already has the authority to ration and I think all of us recognize that, under past authority we have given him authority to impose rationing. What this bill does is to go further and say no rule under this section can impose a tax or surcharge. I would think this is a good provision. At least I believe it is.

Mr. KETCHUM. I will go further now to the question the gentleman has already stated, that these powers already exist, but in the bill we had a provision for congressional veto on rationing. That is no longer in this bill. Is that correct?

Mr. BROYHILL of North Carolina. That is correct.

Mr. KETCHUM. Mr. Speaker, for 3 days last week, this body worked long into the night debating the Energy Emergency Act, after pending before the Congress for several weeks, this bill was pushed through

the House with unseemly haste, which precluded close scrutiny of its provisions. We did not even have the time to debate scores of amendments to this terrible bill which was badly in need of amendment. Certainly, this was the case with the amendment offered by my esteemed colleague, the gentleman from Pennsylvania (Mr. John Heinz), which restored to the Congress the power to vote on a program of gasoline rationing.

Mr. Speaker, in my mind this was the most important amendment to this bill, and as I pointed out in my remarks last week it certainly deserved more time for debate. I am delighted, however, that it was included in the House version of the bill. The time has passed for the Congress to stop talking about reasserting its lost authority and do something to get it back. That is what this amendment was all about. It precluded simply passing over to the executive branch the power to institute a massive program of rationing without even a vote in Congress.

Now we are informed that this bill will not include this vital amendment. Once more, the Congress will grant extraordinary powers to the President and shirk from its responsibility to face this crisis squarely. I deplore this action on the part of our conferees in retreating from the fight, and thus I shall not vote for this bill which simply grants more power to the executive branch and absolves Congress from its proper role and responsibilities.

Mr. HASTINGS. Mr. Speaker, I will be brief. I think it is important we understand what is in **title II** of this bill again. I heard a great deal of comment on this floor when we passed the House bill and particularly from the gentlemen from the State of California, among others, who were concerned with the Environmental Protection Agency's right to impose parking surcharges in their respective States. **[Sec. 202(b).]**

If the gentlemen want to remove that right, they will approve this bill because we suspend the right of EPA to impose a parking surcharge under **title II** of this bill. If we want to take away from EPA the right to impose that and have congressional authority to implement the parking plan which says they will tell Members where they can in their State build buildings, then we have to have **title II**.

I can only repeat if we want to have powerplants in this country convert from petroleum to coal, the only way we can do it is if **title II** is approved.

If we want to have auto emissions standards suspensions, and I might say that these are a modification and compromise between the Senate and House versions, which still protects the right of the environment, then we must approve **title II**.

This is the only opportunity we now have available to us. If we want to achieve those things, then we vote for this bill.

Mr. WHITTEN. Mr. Speaker, am I not right that the existing authority of the Environmental Protection Agency to extend the time for requiring automobile changes, and can waive present requirements. So while existing law does not require extension of the time, the law authorizing the requirements also provides for waiver.

Mr. HASTINGS. I would answer the gentleman by saying the Environmental Protection Agency has advised our committee they are not interested in waiving or suspending any of the existing standards.

Mr. WHITTEN. The question I asked had to do with the authority to postpone. I sincerely believe we will require a postponement, a waiver, and authorize removal of existing expensive and gas consuming devices.

Mr. JAMES V. STANTON. Mr. Speaker, we are led to believe that we are left with no alternative, but I think there is an alternative.

Rather than vote for a bill which represents what the major oil companies and what the President want, the alternative is to come back on January 4 or 5 and go to work and complete a bill that is not put to us by a gun summoned by Senator Long or those other interests in the Senate.

If this House had the courage and the will and the fortitude, it would not willy-nilly submit itself to this process that it is now going through. If the character and the strength of the leadership of this House was what it has been saying it was going to do all year, making the legislative branch of the Government a viable force here in the United States that could be supported by the will of the American people, then they would take the courage and the action of calling this House back on January 5 and acting on an energy bill that is not dictated by the oil interests and by Richard Nixon.

Mr. HUBER. Mr. Speaker, I am very concerned. I do not know what happened to the busing situation. As I understand it, that provision was taken out of the bill.

Mr. Speaker, as I understand it, at this late hour, this great representative body that is supposed to be of the people, by the people, and for the people, are going to vote for something that is going to make sure that the kids get bused. Then we would be doing a great disservice to the people and I ask my fellow Congressman to vote "no."

Mr. DINGELL. Mr. Speaker, I thank the gentleman for his kindness and say that he is right. If the Members want another chance to get the busing provisions back, vote no on the bill and we will get another chance.

Mr. RHODES. Mr. Speaker, this is the only way to get an energy bill tonight. I respectfully submit that this is a bill which should be passed. It is a bill which the people of the United States expect us to pass.

Mr. SPEAKER, I hope that we will vote "aye," and pass this bill.

Mr. HOLIFIELD. Mr. Speaker, I am going to vote "no" on this bill. I have three oil fields in my district; one in my home town of Montebello; one in President Nixon's former home town of Whittier; and one in Santa Fe Springs. In addition, my district is very near the great Long Beach oil field, which my friend from California (Mr. Hosmer), represents. So let no one say that I do not have oil interests in my district.

But I want to read something to the Members, and this was in the Congressional Record this week, put in by my friend from Illinois (Mr. Price):

The increase in profits in the third quarter of Exxon was 81 percent; of Mobil 64 percent; of Texaco 48 percent; Gulf 91 percent.

That is the increase in profits. Every time they put a penny increase on a gallon of gasoline they take in \$1 billion. Mr. Shultz testified on

that before the Ways and Means Committee. This is what we are letting ourselves in for.

The conference report requires statistics on the amount of oil in this country so that we could base equitable prices to control the profits on an equitable basis. It requires a limit on windfall profits. There is no limit on windfall profits in the Senate bill.

We talk about getting a bill tonight—I was in Bethesda three times this week. I am as tired and I am as weak as any man in this body right now, but I will stay here; I will come back on the fifth of January, the second or third or any other time to take the time that is necessary to fight this thing out. I do not mean under a suspension of the rules, but if we have to stay another 3 days—and I pay tribute to the gentleman from West Virginia for the extremely difficult legislative job that he has tried to do under conditions of extreme pressure and limited time.

Mr. Speaker, I say we are not handling this legislation the way it should be handled. I am willing to go home and tell my people that I did not vote for a bill that I thought was wrong. I am willing to tell them that I think it is wrong for these oil companies to get the excessive profits they are getting without any let or hindrance.

We are going to ask the people to sacrifice in many ways. We should have equitable sharing and that means that the oil companies should be willing to earn normal profits—not excessive profits.

This problem is a national problem. It needs an equitable solution. The sacrifices should be shared across the board by the great corporations as well as the mass of our people.

I could ask my people to take rationing, but that can be put on in another bill, and not this bill, and the allocations can be put on in another bill, not under this bill, for fuel oil and that sort of thing.

This vote is going to draw the line between the men and the boys.

Mr. ROY. Mr. Speaker, when I go home I am frequently asked, "Where were you when the energy crisis was developing?" I assume all of us in this Chamber are asked that question.

Of course, each of us has a different answer.

I submit to the Members that if we fail to put in a windfall profits section, when we go home we are going to be asked, "Where were you when prices were going up and profits were going up correspondingly?"

I am personally not willing to say to my people that during the week that crude oil prices were raised \$1 by the Cost of Living Council without any attempt to justify on basis of costs I, in my rush to go home, caved in to the other body and passed an energy bill with no windfall profits restriction provision.

So, Mr. Speaker, I urge a "no" vote on the bill.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. Mizell).

Mr. MIZELL. Mr. Speaker, I have asked for this time to ask the gentleman from Kansas this question:

Was he not the Member who offered the amendment that exempted the oil companies that were producing 25,000 barrels a day from the windfall profits section?

Mr. ROY. Mr. Speaker, I appreciate that question. But we have a problem of the big fish eating the little fish, and those little fish will not survive. The big fish will have all the oil, and there would be nothing the gentleman from North Carolina or myself could do about it.

Mr. MIZELL. The company who produces 25,000 barrels of oil per day should have benefit from windfall profits, under the gentleman's amendment.

Mr. DERWINSKI. Mr. Speaker, I hate to speak after the distinguished diplomats who have just addressed themselves to the subject, but the fact of life is that we face a bill that none of us have seen, and that none of us really know and, notwithstanding any exaggerated oratory, none of us knows who is benefiting or who is suffering.

The administrator of whatever program is on the books will struggle through between now and the 21st or the 28th of January, without any action tonight. They could go on through the end of February without any real action by this Congress, and I do not really understand why at this time of the night and under these conditions we should be voting in favor of a bill that none of us really understand.

Mr. Speaker, this bill will affect every living American, everybody in every Member's district, and I just do not understand the rationale of voting through a bill that will so directly affect every Member's constituent without more than one or two Members understanding what they are really doing.

Mr. Speaker, I suggest we vote down the pending issue.

Mr. BAUMAN. Mr. Speaker, I rise in opposition to the pending resolution, the fragile vehicle to which fate has attached what is suddenly become the compromise emergency energy legislation.

If for no other reason, I and other Members of the House should oppose this illegitimate offspring of the energy crisis because of the manner in which it is being presented to us on this cold and snowy almost-Christmas eve. Do any of us really know what is contained in this proposal so new that the ink is not even dry? After 4 exhausting days of debate on the previous emergency energy bill and this legislative sideshow we have seen tonight we should have learned at least one thing; that this entire subject is far more complex and the need for solutions far too grave to address it in such a slipshod and unparliamentary manner. We have nothing here to recommend the contents of this brand new surprise package other than the bland assurances of its midwives who have also been called into emergency service tonight. Have any of us even had the chance to read what this so-called compromise says?

It is my understanding that the bill as passed by the other body within the last few hours gives to the President and the executive branch almost unlimited power over the energy crisis for a period of 60 days. Does this mean that the President can impose a tax on gasoline as a means to discourage use? Does it mean that he can slap on a bureaucratic system of rationing? Can he issue more and more regulations over which the Congress will have little or no control?

I for one am opposed to rationing and taxes as a means to solve the energy crisis and I think all of us in Congress should have the final say on what is to be done.

Mr. Speaker, it amazes me to see the representatives of the people of this great Nation so willing to turn over to the executive branch the life and death power over the national economy and the lives of every one of our citizens. I want a chance to cast a vote on any plans that will affect my constituents and as I see it, this legislation may well deny me that right by placing all power in the hands of the Executive.

Where are the champions of the powers of Congress now? Where are those who have cried out against Executive usurpation of the powers of the national legislature? I for one was not sent here to surrender the power of Congress to any President of either party, and especially not the power over the grave crisis we are facing with regard to energy. I am opposed to this bill and I believe that those who support it will live to see the day that they will regret their action.

The SPEAKER. Will the Members of the House give the Chair their attention. The electronic equipment is out of order. It is evident that it is not going to be repaired in time to finish this bill tonight. The Chair knows of no way in which to handle this matter except by a rollcall vote, and to combine with the rollcall vote any Member whose name is recorded who has left.

The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers) that the House suspend the rules and agree to the resolution, House Resolution 761.

The question was taken.

Mr. DINGELL. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

The question was taken; and there were—yeas 36, nays 228, not voting 168, as follows:

[Roll No. 723]

YEAS—36

Bennett
Biester
Breau
Broyhill, N.C.
Broyhill, Va.
Cederberg
Clausen, Don H.
Cochran
Cohen
Davis, Wis.
Findley
Forsythe

Frenzel
Hamilton
Hastings
Henderson
Hosmer
Johnson, Pa.
McClory
McCollister
McFall
Maraziti
Martin, N.C.
Mitchell, N.Y.

Pettis
Preyer
Pritchard
Rhodes
Robison, N.Y.
Staggers
Stratton
Treen
Vander Jagt
Wampler
Wyatt
Wylie

NAYS—228

Abdnor
Adams
Alexander
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashley
Badillo
Barrett
Bauman
Beard
Bergland

Blatnik
Roland
Bowen
Brademas
Bray
Breckinridge
Brinkley
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burke, Fla.
Burke, Mass.

Burleson, Tex.
Burlison, Mo.
Carey, N.Y.
Carter
Casey, Tex.
Chappell
Clark
Crawson, Del.
Conable
Conlan
Conte
Coughlin
Crane

Cronin	Jones, Okla.	Randall
Culver	Jones, Tenn.	Rangel
Daniel, Dan	Jordan	Regula
Daniel, Robert W., Jr.	Karth	Reuss
Davis, Ga.	Kastenmeier	Rinaldo
Davis, S.C.	Kazen	Roberts
de la Garza	Kemp	Robinson, Va.
Dellums	Ketchum	Rodino
Denholm	King	Roe
Dennis	Koch	Rogers
Derwinski	Kyros	Rooney, Pa.
Dingell	Latta	Rose
Donohue	Litton	Rosenthal
Dorn	Long, La.	Roush
Downing	Long, Md.	Roy
Drinan	McCloskey	Ruth
Duncan	McCormack	St Germain
Eckhardt	McDade	Sandman
Edwards, Calif.	McKay	Sarbanes
Eilberg	McKinney	Satterfield
Erlenborn	Macdonald	Schroeder
Esch	Mahon	Seiberling
Evans, Colo.	Mallary	Shuster
Fascell	Man	Skubitz
Fisher	Mathias, Calif.	Slack
Flood	Mathis, Ga.	Spence
Flowers	Matsunaga	Stanton, J. William
Foley	Mayne	Stanton, James V.
Ford, William D.	Mazzoli	Steele
Fountain	Meeds	Steelman
Fraser	Melcher	Steiger, Wis.
Gaydos	Metcalf	Stokes
Giaimo	Mezvinsky	Stuckey
Gilman	Milford	Studds
Ginn	Miller	Symington
Gonzalez	Minish	Symms
Goodling	Mink	Talcott
Gray	Mitchell, Md.	Taylor, N.C.
Green, Pa.	Mizell	Thompson, N.J.
Gude	Moakley	Thomson, Wis.
Gunter	Mollohan	Thone
Guyer	Montgomery	Thornton
Hammerschmidt	Moorhead, Calif.	Tiernan
Hanley	Morgan	Towell, Nev.
Hanrahan	Mosher	Udall
Hansen, Idaho	Myers	Ullman
Harsha	Natcher	Vanik
Hawkins	Nedzi	Waggonner
Hechler, W. Va.	Obey	Waldie
Heckler, Mass.	O'Hara	Whalen
Helstoski	O'Neill	Whitten
Hicks	Owens	Widnall
Hogan	Parris	Wilson, Charles H., Calif.
Holifield	Passman	Wilson, Charles, Tex.
Holtzman	Patman	Winn
Horton	Patten	Yatron
Howard	Pepper	Young, Alaska
Huber	Perkins	Young, Fla.
Hudnut	Pickle	Young, Ga.
Hungate	Pike	Young, Ill.
Ichord	Powell, Ohio	Young, S.C.
Johnson, Calif.	Price, Ill.	Young, Tex.
Jones, N.C.	Quie	Zablocki

NOT VOTING—168

Abzug	Froehlich	Poage
Addabbo	Fulton	Podell
Anderson, Calif.	Fuqua	Price, Tex.
Anderson, Ill.	Gettys	Quillen
Andrews, N. Dak.	Gibbons	Railsback
Arends	Goldwater	Rarick
Ashbrook	Grasso	Rees
Aspin	Green, Oreg.	Reid
Bafalis	Griffiths	Riegle
Baker	Gross	Roncalio, Wyo.
Bell	Grover	Roncallo, N.Y.
Bevill	Gubser	Rooney, N.Y.
Biaggi	Haley	Rostenkowski
Bingham	Hanna	Rousselot
Blackburn	Hansen, Wash.	Roybal
Boggs	Harrington	Runnels
Bolling	Harvey	Ruppe
Brasco	Hays	Ryan
Brooks	Hébert	Sarasin
Brotzman	Heinz	Scherle
Brown, Mich.	Hillis	Schneebeli
Burgener	Hinshaw	Sebelius
Burke, Calif.	Holt	Shipley
Burton	Hunt	Shoup
Butler	Hutchinson	Shriver
Byron	Jarman	Sikes
Camp	Johnson, Colo.	Sisk
Carney, Ohio	Jones, Ala.	Smith, Iowa
Chamberlain	Keating	Smith, N.Y.
Chisholm	Kluczynski	Snyder
Clancy	Kuykendall	Stark
Clay	Landgrebe	Steed
Cleveland	Landrum	Steiger, Ariz.
Collier	Leggett	Stephens
Collins, Ill.	Lehman	Stubblefield
Collins, Tex.	Lent	Sullivan
Conyers	Lott	Taylor, Mo.
Corman	Lujan	Teague, Calif.
Cotter	McEwen	Teague, Tex.
Daniels, Dominick V.	McSpadden	Van Deerlin
Danielson	Madden	Veysey
Delaney	Madigan	Vigorito
Dellenback	Mailliard	Walsh
Dent	Martin, Nebr.	Ware
Devine	Michel	White
Dickinson	Mills, Ark.	Whitehurst
Diggs	Minshall, Ohio	Wiggins
Dulski	Moorhead, Pa.	Williams
du Pont	Moss	Wilson, Bob
Edwards, Ala.	Murphy, Ill.	Wolf
Eshleman	Murphy, N.Y.	Wright
Evins, Tenn.	Nelsen	Wylder
Fish	Nichols	Wyman
Flynt	Nix	Yates
Frelinghuysen	O'Brien	Zion
Frey	Peyser	Zwach

So (two-thirds not having voted in favor thereof) the motion was rejected.

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Arends.

Mr. Hays with Mr. Harvey.

Mr. Bevill with Mr. Heinz.

Mr. Harrington with Mr. Gubser.
 Mr. Anderson of California with Mr. Brotzman.
 Mr. Gibbons with Mr. Frelinghuysen.
 Mrs. Collins of Illinois with Mr. Danielson.
 Mr. Biaggi with Mr. Anderson of Illinois.
 Mrs. Hansen of Washington with Mr. Eshleman.
 Mr. Aspin with Mr. Collier.
 Mr. Gettys with Mr. Blackburn.
 Mrs. Chisholm with Mr. Corman.
 Mrs. Boggs with Mr. Andrews of North Dakota.
 Mr. Evins of Tennessee with Mr. Fish.
 Mr. Bingham with Mr. Cleveland.
 Mr. Fuqua with Mr. Edwards of Alabama.
 Mr. Delaney with Mr. Ashbrook.
 Mr. Flynt with Mr. Frey.
 Mrs. Burke of California with Mr. Butler.
 Mr. Dent with Mr. Froehlich.
 Mr. Brasco with Mr. Bafalis.
 Mr. Fulton with Mr. Dellenback.
 Mr. Carney of Ohio with Mr. du Pont.
 Mr. Byron with Mr. Camp.
 Mr. Hanna with Mr. Devine.
 Mr. Haley with Mr. Clancy.
 Ms. Abzug with Mr. Burton.
 Mrs. Grasso with Mr. Goldwater.
 Mr. Dominick V. Daniels with Mr. Baker.
 Mr. Cotter with Mr. Dickinson.
 Mrs. Griffiths with Mr. Grover.
 Mr. Brooks with Mr. Chamberlain.
 Mrs. Green of Oregon with Mr. Bell.
 Mr. Diggs with Mr. Dulski.
 Mr. Conyers with Mr. Leggett.
 Mr. Hébert with Mr. Collins of Texas.
 Mr. Jarman with Mr. Hillis.
 Mr. Jones of Alabama with Mr. Keating.
 Mr. Kluczynski with Mr. Hutchinson.
 Mr. Landrum with Mr. Lott.
 Mr. Mills of Arkansas with Mr. McEwen.
 Mr. McSpadden with Mr. Hinshaw.
 Mr. Lehman with Mr. Martin of Nebraska.
 Mr. Moorhead of Pennsylvania with Mr. Lent.
 Mr. Moss with Mr. Michel.
 Mr. Madden with Mrs. Holt.
 Mr. Nichols with Mr. Minshall of Ohio.
 Mr. Murphy of Illinois with Mr. Lujan.
 Mr. Podell with Mr. Kuykendall.
 Mr. Rarick with Mr. O'Brien.
 Mr. Murphy of New York with Mr. Hunt.
 Mr. Rees with Mr. Madigan.
 Mr. Riegle with Mr. Peyser.
 Mr. Nix with Mr. Nelsen.
 Mr. Reid with Mr. Landgrebe.
 Mr. Roncalio of Wyoming with Mr. Mailliard.
 Mr. Rooney of New York with Mr. Price of Texas.
 Mr. Rostenkowski with Mr. Quillen.
 Mr. Roybal with Mr. Railsback.
 Mr. Shipley with Mr. Roncallo of New York.
 Mr. Sisk with Mr. Sarasin.
 Mr. Runnels with Mr. Rousselot.
 Mr. Smith of Iowa with Mr. Steiger of Arizona.
 Mr. Sikes with Mr. Scherle.
 Mr. Stack with Mr. Ruppe.
 Mrs. Sullivan with Mr. Shoup.
 Mr. Ryan with Mr. Smith of New York.
 Mr. Steed with Mr. Schneebeli.

Mr. Teague of California with Mr. Taylor of Missouri.
 Mr. Stephens with Mr. Snyder.
 Mr. Teague of Texas with Mr. Sebelius.
 Mr. Stubblefield with Mr. Shriver.
 Mr. Van Deerlin with Mr. Walsh.
 Mr. Wolff with Mr. Ware.
 Mr. Vigorito with Mr. Whitehurst.
 Mr. White with Mr. Bob Wilson.
 Mr. Wright with Mr. Wiggins.
 Mr. Yates with Mr. Williams.
 Mr. Zion with Mr. Wydler.
 Mr. Zwach with Mr. Wyman.
 Mr. McClory with Mr. Hruska.
 Mr. Young of Texas with Mr. Widnall.
 Mr. Brown of Michigan with Mr. Clay.

The result of the vote was announced as above recorded.

ENERGY LEGISLATION

Mr. MALLARY. Mr. Speaker, I deplore the tactics under which this emergency energy bill is brought to us tonight. We have not had an opportunity to study and understand the substance of the conference agreement. We do not have before us nor have we had explained the Senate amendments which are proposed to be added to this bill. Neither have we seen nor do we have the substance of H.R. 12128 which we are being asked to adopt tonight.

I fully recognize the need for energy conservation measures in this crisis. I also fully recognize the need to prevent excessive profiteering by any company in the energy business. A bill needs to be passed. The Congress must act responsibly, but it is not responsible to act after 40 minutes' debate without fully understanding the substance of what this bill attempts to do.

I am willing to come back tomorrow, or Sunday, or next week to act on this critical subject. I will not be railroaded into voting in ignorance on this matter merely to speed the Christmas recess.

Therefore, Mr. Speaker, I must vote "No" on this motion.

Mr. KEMP. Mr. Speaker, I take this time to explain why I voted against enactment of the proposed National Emergency Energy Act.

I believe this bill is worse than no bill at all—much worse. In reality, this bill mandates gas rationing; and, if one would ever want to see further shortages of gasoline, this bill will produce them. Just witness what happened after the freeze on beef prices—the beef shortage was upon us. These bills do not add one barrel of oil or gas to our consumer's needs, but it does mandate rationing as I said earlier.

The President already has all the authority he needs to do what should be done—phase out phase IV regulations and decontrol petroleum, as was done with two other vital industries—cement and fertilizers. He does not have authority to impose new taxes and I for one do not believe he should be given that authority. When other industries were decontrolled, the reason given in both instances was to increase production. Well, Mr. Speaker, that is exactly what is needed to end the petroleum shortage—and, for that matter, other shortages.

The true market price of petroleum products would then rise and we would have to curtail any runaway prices or excessive profiteering at the people's expense. We would, also, have to make sure that middle-

and low-income individuals are particularly protected. But, as production is increased, prices will fall again, plus research and development will, by then, have provided new sources of energy. This happened in the early middle of the 19th century when whale oil was our chief source of fuel, as it became more scarce, the price rose and created exactly the incentive needed to develop newer sources of energy. Petroleum and its development and expansion was the result.

Let me explore further my opposition to this hastily devised and poorly considered legislation which will affect us and our free economy well into the next decade.

Important laws affecting the lives of all the American people are considered and passed in this Chamber on almost a daily basis. Each is, we must trust, the product of careful consideration by its sponsor, a legislative committee, the Committee on Rules, the leadership, and this body as a whole. The Congress has passed many good laws, and it has passed some less-than-good laws, and we must not forget that good laws tend to engender more good laws while bad laws produce more bad laws.

We are, today, at the point of embarkation on the direction this Nation will follow in getting through, and eventually resolving, the energy crisis. If we, by the enactment of this legislation, set a certain course of action into motion, it will be hard to reverse or redirect it if we perceive at a later date that we have made a mistake. Subsequent statutes, regulations, policies, programs, agencies, and Federal employees—as well as the private sector—will have proceeded down one direction. It will be difficult to rechannel that momentum. The Congress must, therefore, be assured that it is, in fact, about to go in the right direction before it launches this massive effort.

It is seldom that a matter comes to this Chamber which is an all black or white, all issues clear-cut measure, but at the time of final passage one cannot vote 60 percent this way, 40 percent that way. One must vote all “yea” or all “nay;” there is really no viable third alternative.

I have weighed carefully the countervailing aspects of the legislation now before us—the proposed National Emergency Energy Act, as reported by the House-Senate committee on conference. On the whole, I do not believe this legislation to be worthy of the support of the Members of this House.

The conference reported bill has a number of major problem areas. I believe the bill should be sent back to conference, with instructions from this body to correct those problem areas. What are they?

First, the bill constitutes a virtually unparalleled abrogation of constitutional powers by the Congress, given to the Executive actual law-making power. It gives such far-reaching powers to the Executive as to raise reasonable doubts about its constitutional validity, if court tests—as I am sure they will—arise from its implementation.

The Constitution, in article 1, gives to the Congress, as the legislative branch, the sole power to make law. And, consistent with the principles of separation of powers, article 2 gives to the Executive the sole power to carry out those laws. The bill before us runs counter to this principle, surely in spirit and, most probably, in letter.

Under the allocation of scarce fuels plan embodied in this bill **[Sec. 107]** a plan of a Federal agency could be put into immediate effect

and remain in effect until March 1, 1974. From March 1, 1974, until June 30, 1974, such a plan would have to be delivered to each House but would then go into automatic effect in 15 days if not vetoed. Third, thereafter, the Federal agency could only submit proposals for ordinary legislative enactment.

I suggest this plan is so unrealistic as to the exercise of congressional powers, as to actually deny those powers. The track record of congressional deliberations does not indicate great ability to do anything in 15 days, much less thoroughly review a proposal as major as allocation of scarce resources. Nonaction would put the stamp of legislative approval on executive legislation, and that is what the bill really authorizes—"executive legislation." Congress will have abdicated in favor of the Executive. The Executive can pass law outside the reach of Congress during the period while Congress is not in session—from this week until January 21; and, until March 1, 1974, the Executive can make law effective immediately.

Stated briefly, the issue is whether the Executive, through its agencies, should be given authority to legislate, generally, in all areas in which the agency director finds that such action is simply "necessary to reduce energy consumption." The Executive could do such things, for example, as establish highway speeds, limit the use of fuels by businesses and industries, direct mandatory carpools, direct mandatory rationing and allocation schemes, establish priorities—according to its standards and not those of Congress—among users, ban various types of lighting, et cetera, without presenting the matter to Congress until after such law or laws went into effect during the recess. After the recess and until June 30, 1974, the Executive could so legislate, but the Congress could exercise that unrealistic, 15-day veto power. I do not believe the people want this concentration of power.

Our form of government is essential to the preservation of our rights and liberties. That form arose from the infringements on rights and liberties which infringements grew out of government without adequate balances and separations of powers. It would be easy to simply vote "yea" today, turning one's back on this issue, but to do so, in my opinion, is to show yet one more example where Congress is willing to surrender power to the Executive because it cannot make the hard, crucial-choice decisions which we are elected to make on the people's behalf.

When we look at what we are about to do—in essence, launch a program that will affect directly the lives and well-being of every citizen of our Nation—I think prudence alone mandates a more careful—and more constitutionally defensible—approach be taken. Such a measure would certainly have wider support.

As I stated in an address to this House during final consideration of the House version:

This bill, if it becomes law, would usher in a virtual economic dictatorship, giving to the Executive an unparalleled peacetime control over the arteries of our economy, and I, Mr. Chairman, want no part of such an abrogation of economic and political freedom. The shrill cries which we hear in this Chamber today are not dissimilar to those cries we heard for the imposition of wage and price controls—a plan which has turned out to be one of the most dismal records

of failure by government in modern times. The Congress ought never to be stampeded into a giving to the Executive of control over our very lives through regulation of our resources.

It has been said, "If you liked the beef shortage, you'll love the mandatory fuel allocation bill." It is unfortunate that such an astute observation may have to be proved—to the people's, the economy's, the Nation's detriment, for nothing in this conference report convinces me that my prior observations are not still applicable.

As the last point on this subject of congressional abrogation, one should note that there is nothing in this omnibus bill which could be made the subject of individual bills—each treated fully on its respective merits.

I have spoken on a number of occasions during recent weeks and days on the tremendous need for Government policies to foster increases in production. One of the principal reasons for the energy shortage is the inadequate production of fuels.

It is more appropriate for government policy to encourage increased production, from which all reasonable demands could be met, than to try to ration a shortage.

The Washington Post has reported that it will take an expenditure of \$130 billion—that is \$130,000,000,000—for the petroleum industry alone to bring its production up to meet the demand level anticipated. That will require a return on investments of 18 percent during the foreseeable future, a return greatly discouraged by the provisions of this legislation.

I do not believe in giving the oil industry all the profits it wants; I oppose that. Profits must be reasonably balanced with the capacity of the people to pay higher prices; there must be middle ground; 95 percent of profits will go for developing and exploring for new sources of gas and oil. I even support the elimination of the controversial oil depletion allowance, when profits are otherwise generated for reinvestment. But, I do not believe that we should cripple the capacity of the industry to produce the fuels that our Nation so badly needs. This legislation goes in the same crippling direction as did the price freeze—and it, too, will not work.

Unrealistic price controls, particularly in the natural gas industry, have caused dislocations and misallocations in the economy, have produced overconsumption of that fuel and underconsumption of others. Misdirected tax policies have contributed to a decline in the rate of capital formation requisite for reinvestments. These are but two of many examples.

This Congress ought to concentrate on increasing production. If we do not, we will prolong the crisis, and I think it would be most unfortunate if the finger can be pointed back at the Congress as the reason for a prolongation of this crisis. Certainly, the people would hold the Members responsible for such a fiasco—and they should.

An overriding concern which I have shared with other Members, throughout this national debate on how to resolve the energy crisis, has been the potentially adverse impact of measures being proposed on the individual—the consumer—the low- and middle-income taxpayer.

The role of the consumer is central to a market economy. By the use of free choice and individual selection of the goods and commodities he wishes to buy, the consumer is a bellwether on where industry ought to concentrate its output and production capabilities. On the economic well-being of the consumer rests the vitality and the purchasing power essential to maintaining national production—from which jobs and salaries flow naturally.

The distinguished and respected gentlewoman from Oregon (Mrs. Green) reflected the attitudes of the American consumer with a clarity which deems repeating:

I think the American citizen will make the necessary sacrifices on an individual basis when facing any real national crisis. The majority, the big majority, will respond to a national crisis in a very commendable way if—and I put the emphasis on the word “if”—if they believe their sacrifices are borne in an equitable and fair way.

I agree wholeheartedly with that observation. Because the American consumer treasures more than just material wealth and his pocketbook, he has been willing to sacrifice. He is willing to suffer a little economic hardship, if he feels others are sharing that hardship with him. He is not willing to surrender his freedom to Government regulators.

That is why—despite modestly higher prices—he still prefers the marketplace—which puts him in the decisionmaking process at its most crucial point—over the strictures of a regulated economy—which puts the bureaucracy in that decisionmaking, focal point. Freedom is worth a little more, and the American consumer knows that. What he asks for is simple: He asks that his sacrifices be shared by the sacrifices of others. If he feels that he is being treated unfairly, that other users are given—by government regulation—what he perceives to be unfair advantages over him, then the line is drawn. That must be avoided.

The American consumer has lived through shortages—and rationing—before. He has struggled, persevered, and survived. But those crises were the results of necessities imposed by wartime conditions. This immediate crisis is of a very different nature, for even though the crisis was intensified greatly by the curtailment of shipments of oil from the Arab States to our country, it was also produced by misdirected government policies and regulatory schemes which discouraged production. There can be little wonder why the American consumer questions why he must now sacrifice because government policy was misdirected or too shortsighted. I share his concern.

The consumer is also concerned over the effects of an allocation—mandatory rationing—system upon him and his livelihood. Not only does it threaten his work and his income, and the security of his family arising therefrom, but the use of such ameliorative measures can actually extend the time frame for the long-range alleviation of the crisis. Why? Because rationing can become a crutch which Government and industry leans upon, living thereby with inadequate resources, rather than being compelled by necessity to concentrate with fullest urgency on the production of additional resources.

We must never fail to hold in the highest regard the decisions and values of our consumers—the individual people of America. In the long run they are very perceptive and know what is best for them and the Nation. They should never be sold short by an elitist philosophy which espouses that Government can do better for the people than they

can do for themselves. The consumer is, as I have indicated, the mainstay of the economy. We should treat him with more respect than we do by allowing this "economic Gulf of Tonkin" bill to pass.

It is not unfair to ask of me, since I am voting against this bill, "What would you do instead?"

I would approach the issue from the following premise: A concerted nationwide effort to resolve the immediate aspects of the energy crisis must consist of measures on three levels:

First, demand must be reduced. To the extent possible, this should be done through voluntary conservation measures—carpools, use of mass and urban transportation systems, use of lighter and more efficient automobiles, elimination of nonessential trips, et cetera.

Second, present supplies must be allocated in the most efficient manner. This is not achieved by arbitrary and mandatory government regulatory schemes for rationing; the marketplace is the most efficient and fairest allocator of scarce resources.

Third, supply must be increased. Rather than living with inadequate supplies, we must increase them.

Unfortunately, the bill before us fails, in varying degree, in all of these three areas. Instead of offering incentives for reduction in fuel uses, the bill relies upon the basic approach of compulsory rationing, resulting in less efficient uses than those which would result from a market allocation system. Lastly, the bill does not offer incentives sufficient for increases in supply, except in the one noticeable area of coal. Otherwise, returns on investments are too severely limited to provide adequate capital with which to increase supply to a fully adequate level.

A wide range of methods available for substantially increasing production—the real answer to resolving this crisis—are either not dealt with, or are dealt with inadequately, in this bill. These measures include:

Construction of deepwater ports at which tankers can discharge their crude oil supplies for pumping to shore refineries;

Accelerated development of offshore oil exploration and recovery;

Additional construction of refineries with which to process new volumes of crude oil;

The enactment of various tax incentives for more efficient uses of fuels, both home, travel, and industry;

Increasing production of natural gas;

Removal of those artificial price controls which are strangling production;

An expansion of basic research and applied demonstration projects for more efficient uses of presently used fuels and for discovering and harnessing new or experimental fuel sources.

I think, Mr. Speaker, that it should be obvious that those who oppose the enactment of the specific provisions of the bill before us are not obstructionist, Members without answers—better answers. I think the path outlined and the initiatives suggested are preferable to those embodied in the present bill.

Mr. PERKINS. Mr. Speaker, during my years in the Congress I have devoted a considerable amount of time and effort to bring the Congress' attention to the great benefit in the potential use of coal in much

greater quantities than presently prevail. I know that these efforts have been recognized, but I regret that it has taken an energy crisis to really bring the potential of coal to center stage. However, we need to continue to move ahead—to move on and solve this problem, and for that reason I would like to make the following statement. I think it will help us see the proper way to move on.

First I will discuss a general energy policy. After setting the stage with that discussion, I will point out how national energy needs can be and must be met by the utilization of coal.

The nature and magnitude of our country's energy shortage is coming into sharp focus. We shall, for the long term, have substantially higher real costs for energy than in our historic national experience. Higher real costs are unavoidable. We are threatened with national dependence, for energy, on the political vagaries of a bloc of foreign nations. This dependence is entirely avoidable. The choice is ours, and ours the decision as to the adequacy or failure of our initiative.

Many things have contributed to the present crisis. These include, on the demand side, a U.S. consumption of energy rising steadily for more than a decade at an annual average rate well above 4 percent per annum, while our accredited government experts persisted in forecasting that this growth would fall toward 3 percent. So, in a decade, the national energy requirements came to be greatly higher than had been foreseen. On the supply side, there was a leveling off of domestic production of crude oil and natural gas, a reduced usage of coal, and a very disappointing rate of completion of nuclear plants. The Federal Government moved ahead very slowly in offshore leasing for oil and gas explorations. The Government hardly moved at all in forwarding the development of substitute oils and gases, oils and gases which can be derived from our abundant coal and shale deposits.

The extent of our shortfall in domestic energy resources is indicated by the fact that since 1970 our import volume of petroleum has almost doubled and, just prior to the outbreak of hostilities in the Middle East last October, imports represented 35 percent of U.S. petroleum supplies—nearly half of which originated in Arab nations.

In short, through lack of foresight and a chronic unwillingness to face unpleasant facts, we permitted our vital national interests to be held hostage by a consent of foreign powers dedicated to the attainment of their individual and collective goals, regardless of any cost to our country and its allies.

Now, like the grasshopper in the fable which indulged its short-term pleasures at the expense of its long-range necessities, we face ill-heated homes, hospitals and schools, rising unemployment and the grim prospect of economic recession and threatened impairment of our capabilities for leadership in the free world.

The cost of reversing this intolerable trend will be immense. But as a Nation, we must bear it. In God's providence, we are blessed with a great and relatively untapped resource potential. It is our most urgent duty to develop it for the good of all our people.

As a first approach, we must form a realistic conception of the size of the task. Responsible estimates indicate the need for an investment between 1970 and 1985 of probably as much as \$500 billion to bring the level of our energy supplies to an acceptable level of self-sufficiency.

That is more than the national debt. And to carry out a project of such enormous magnitude will require a national effort on an unprecedented scale.

It is tempting, of course, to assume that the job can be done by the private sector. The American free enterprise system, with its marvelous technological capabilities and associated financial institutions, is thus assumed to need little but token assistance or some shared research money from the public treasury. This indeed seems to be the fundamental assumption of the Nixon administration, which has so far set a goal of national energy self-sufficiency in ten years, relying mainly on the resources of the private sector and on a pathetically small and unimaginative Federal program to stimulate and strengthen the private effort, while devoting its major attention to devising means for administering scarcity as we queue up to receive our quotas of gasoline and heating oil.

The period of austerity must be reduced to a minimum and normal rates of growth restored through a marshaling of all our resources to achieve a level of domestic energy availability which will sustain our economic aspirations.

For that purpose, business as usual with reliance on free market forces is inadequate to meet the conditions of today's world. The risks involved far exceed the resources of the free enterprise system. Private firms cannot be expected to withstand the economic warfare of a concert of nation states. Further, the Arab nations enjoy the enormous advantages of vast petroleum resources acquired at little cost to them and with only insignificant costs of production. By contrast, we face the certain prospect of unknown costs to produce conventional supplies from new sources and to develop costly sources of substitute feed-stocks and fuels. Finally, the Arab States, having complete control of output, can regulate the flow so as to flood world markets or starve them as may suit their advantage.

To speak of free and open competition and free market forces under these conditions is to mock the fundamental assumptions of the free enterprise system—a system of many buyers and sellers seeking to maximize profit, with no one supplier or group holding dominant market power. Our American producers will need, in these next years, to supply coal while engaging in all the costly expenditures of preserving, restoring, and even improving the coal-bearing environment. They will need to search for oil in the Atlantic and the deep Pacific, where oil has never hitherto been found. They will need to convert the hard rock of shale into oil and solid coal into flowing oils and gas. All these efforts will require vast investment and some years of time. No rational producer will undertake these efforts if he sees down the years an energy market so structured that expensive U.S. energy materials will have to compete with oils produced in the Middle East at a cost in the range of 20 cents a barrel.

Given the hard and inescapable facts of the world economic situation, we must therefore accept the plain necessity of adopting an assured market policy for fostering the development of our energy resources. This means, for example, that investors in a coal liquefaction or shale oil production project approved by the appropriate Federal agency, would be given the protection of a contract with that agency

guaranteeing to purchase the output of the plant, at an adequate minimum price, to the extent that alternative outlets were not available at higher prices. Thus, the Government would guarantee the economic viability of the enterprise against loss of markets.

It is this abnormal risk resulting from Arab dominance in oil resources, that must be secured if free enterprise is to perform its proper function in the development of our domestic energy resources. If this risk is assumed contractually, we will have taken a major forward step in the long-range solution of our energy problem. I am preparing more legislation to that end and will seek to have hearings held early in the next session.

It is gratifying in this connection to note that the Nixon administration, in the context of its recommended "windfall profits" tax on crude oil, has suggested the possibility of a price guaranty on output of energy projects approved by the authority created to administer whatever program might be established for application of proceeds of the special tax. Such a price guaranty arrangement, however, can be effective only if it is funded and administered on a scale adequate to national need. Halfway measures dependent on limited sources of funds will result in frustration and disillusionment.

The legislation which I shall propose will also deal with such closely related matters as a lending program for domestic energy resource development projects involving loans up to 90 percent of project costs, repayable out of income realized from the project. It will further propose a basic revision in Federal leasing policy to eliminate the deterrent of cash bonuses and the substitution of competitive financial undertakings of exploration and development work, with royalties payable out of production.

I have previously introduced legislation to facilitate, through appropriate Federal assistance, the utilization of our abundant coal reserves for production of pipeline quality gas and hydrocarbon liquids, as substitutes for natural gas and conventional petroleum products. This, suitably expanded to cover other types of energy research and development, combined with the assured market legislation which I am preparing, will, I hope, define a workable Federal program and policy for dealing realistically with our most pressing national concerns. That concern will, of course, continue to have my most urgent attention. I can only hope that the administration will soon display the requisite sense of urgency.

Mr. Speaker, I have great concern that the administration is approaching the energy crisis much too timidly. Most dangerous, speculation changes from day to day as to the future availability of Mideast oil.

I have great concern that regardless of the resolution of the Mideast crisis, our country will be faced with crisis after crisis dependent upon the changing policies of foreign governments if we can continue to rely upon energy sources beyond what is available in our country.

As a result of industry and power companies turning more and more to the use of oil, it had been predicted that by 1985, unless this trend was altered, 46 percent of all energy resources used to run industry will be oil products. This would have brought about ever increasing dependence on imported crude oil, subjecting our Nation to the pos-

sibility of recurring energy crisis precipitated by the changing policies and objectives of foreign countries.

To place ourselves in this position is sheer folly when the United States has over one-half of the world's known coal resources—one and one-half trillion tons of recoverable coal. Taking into account a greatly expanded rate of usage, these reserves would last more than 500 years.

An essential element of a national energy policy is the implementation of a program to bring about at the earliest possible date energy self-sufficiency.

For this reason, the administration's proposals and the legislation which we have cleared through the Congress, helpful as they may be, at this time fall far short of taking the steps that I believe to be urgently needed.

In reality the energy problem has been staring us in the face for more than 20 years. The current crisis is a direct result of our not having faced up to the problem with the obvious solutions at hand.

On April 16, 1953, more than 20 years ago, I made a speech on this floor in which I said:

By 1975, it is predicted, our daily needs for liquid fuels may be several times greater than our domestic production from petroleum. If we were to be confronted with another all out war, available supplies of liquid fuels would immediately present an acute problem. A growing dependence upon foreign sources of oil would increase our vulnerability and impair our security. It is, therefore, imperatively necessary for us to push ahead, steadfastly and without interruption, with programs for the development of alternative sources of liquid fuel based upon domestic energy resources, including our abundant supplies of coal. . . .

If we are serious about energy self-sufficiency the know-how is at hand and the steps to achieve energy self-sufficiency are clear.

First, we must initiate government-supported demonstration coal gasification and liquefaction plants on a scale to immediately introduce into the energy market gas for industrial and home heating use and liquid fuel for the Nation's oil and gasoline needs.

In this connection, I have introduced H.R. 11887 which would establish and fund a national program for research, commercial development and demonstration of coal gasification and coal liquefaction.

In effect, we would be undertaking what the Germans did in the closing months of World War II when they were shut off from their access to petroleum.

At the end of World War II we began a research program to produce cheap, clean fuel from coal, using the techniques captured from the Germans. A pilot plant in Missouri was so successful that by 1953 it was producing gasoline from coal at a price only 2 cents a gallon higher than gasoline made from petroleum. Suddenly, over my strong protest, the administration closed down the plant. Had that work been allowed to continue, the spectre of gasoline rationing in this country would not now be confronting us.

I also believe that the severity of the problem confronting us requires expanded authority in the Federal Energy Office to undertake a broad range of activities to foster the production and utilization of coal as a major source of the energy requirements of our Nation. In this regard, I am preparing additional legislation to increase the production, transportation and conversion of coal as a source of

energy by giving the energy office broad powers to accomplish these objectives.

Second, it is essential that railroad cars and rolling stock be adequate to the task of transporting the increased volumes of coal which a self-sufficiency energy policy will require. That this shortage is very real is manifested by the passage in the Senate of S. 1149, dealing with the railroad freight car shortage, and the provisions of title V of S. 2767, providing for a major rail rolling stock program with guaranteed loans authorized up to \$2 billion.

I want to commend my colleagues, the gentleman from Texas (Mr. Pickle), the gentleman from North Dakota (Mr. Andrews), and the gentleman from the State of Washington (Mr. McCormack) for their colloquy on October 2, 1973, in which they discussed the freight car shortage problem.

The gentleman from Washington succinctly put it when he said:

The problem, simply stated, is that rail shippers are unable to obtain the rolling stock they desperately need, when they need it. It is affecting grain producers, orchardists, potato growers, coal mining corporations, and the forest products industry. Last, but certainly not least, it is directly affecting the consumer in increased costs of fresh fruits and vegetables, fuel, and housing, and in many similar unfortunate ways.

Finally, we must take very forceful action to encourage and provide appropriate incentives for the conversion of oil-burning industrial, commercial operations to coal-burning operations, intensifying at the same time our research on reduction of pollutants from the use of this fossil fuel. In this regard, I am hopeful that the authorities being given the administration in the bill approved on the adoption of the conference report on S. 2589, the emergency energy legislation, are adequate to accomplish a maximum possible conversion to coal.

S. 2772

AN ACT

CHAPTER 10

S. 2772, TOGETHER WITH REPORT AND DEBATE

S. 2772

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 18, 1973

Referred to the Committee on Interstate and Foreign Commerce

AN ACT

To amend title II of the Clean Air Act, as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That subsection (b) of section 202 of the Clean Air Act,
4 as amended (84 Stat. 1690), is amended to add the following
5 new paragraph:

6 “(6) Notwithstanding the requirements of paragraph
7 (1) of this subsection or the authority granted under para-
8 graph (5) (B) of this subsection, the standards and test
9 procedures applicable to emissions of carbon monoxide, hy-
10 drocarbons, and oxides of nitrogen from light duty vehicles
11 and engines manufactured during model year 1976 shall be

I

1 the standards and test procedures prescribed by the Admin-
 2 istrator for light duty vehicles and engines manufactured
 3 during model year 1975 pursuant to paragraph (5) (A) of
 4 this subsection and section 209 of this Act in his action of
 5 April 11, 1973.”.

Passed the Senate December 17, 1973.

Attest:

FRANCIS R. VALEO,

Secretary.

93D CONGRESS }
1st Session }

SENATE

{ REPORT
No. 93-598

AUTOMOBILE EMISSION STANDARDS

REPORT

OF THE

COMMITTEE ON PUBLIC WORKS

UNITED STATES SENATE

TOGETHER WITH

SUPPLEMENTAL AND ADDITIONAL VIEWS

TO ACCOMPANY

S. 2772



DECEMBER 4, 1973.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1973

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(III)

Calendar No. 776

93D CONGRESS }
1st Session }

SENATE

{ REPORT
No. 93-598

AUTOMOBILE EMISSION STANDARDS

DECEMBER 4, 1973.—Ordered to be printed

Mr. MUSKIE, from the Committee on Public Works,
submitted the following

REPORT

together with

SUPPLEMENTAL AND INDIVIDUAL VIEWS

[To accompany S. 2772]

The Committee on Public Works, reports an original bill (S. 2772) to amend title II of the Clean Air Act, as amended, and recommends that the bill do pass.

GENERAL STATEMENT

The original bill reported by the Committee on Public Works is the result of 18 days of hearings and 8 executive sessions devoted to the review of the implications of auto emission standards required as result of Clean Air Amendments of 1970. While the language of the bill is simple, its implications are important and complex.

The legislation extends for an additional year the interim emission requirements which the auto industry must meet for the 1975 model year. The effect of this amendment is to postpone for one year, the statutory standards established in 1970 for hydrocarbons and carbon monoxide.

The 1970 Clean Air Amendments (P.L. 91-604) required that all 1975 model cars achieve a reduction in emissions of hydrocarbons and carbon monoxide of 90% over the emissions from 1970 model cars. In section 202(b) (5) of the Act, the Administrator of the Environmental Protection Agency is authorized to extend the date for compliance with that statutory standard for one year, upon a determination that:

- (i) such suspension is essential to the public interest or the public health and welfare of the United States; (ii) all

good faith efforts have been made to meet the standards established by this subsection; (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards.

The Administrator made such a determination in April of this year. In accordance with the statute, at that time an interim emission requirement for 1975 model year cars was established. Test procedures for the certification of emission controls on light duty vehicles and engines for model year 1975 have also been established. This legislation provides that the certification procedure for 1976 model cars shall be the same as that for 1975 model cars.

This legislation extends the Environmental Protection Agency interim emission requirements and the implementing test procedures for one more year and extends the final date for compliance with the statutory 90% reduction of hydrocarbons and carbon monoxide to model year 1977. The statutory standard for oxides of nitrogen will also become effective in model year 1977.

The Committee action preserves the separate standard established by the Administrator for California for model year 1976 as well as model year 1975. The statutory authority for a waiver at the request of the State of California for stricter emission controls in model year 1976 remains in effect.

The following table is a summary of the various levels of emission control which have been established.

SUMMARY OF EXHAUST EMISSION STANDARDS

(All values shown are in grams per mile)

	HC	CO	NO _x
Uncontrolled (pre-1968 vehicles) ¹	8.7	87	3.5
1973-74 Federal standards ²	3.4	39	3.0
1973-74 Federal standards converted to the 1975 FTP.....	3.0	28	3.1
1974 California standards ²	3.2	39	2.0
1974 California standards converted to the 1975 FTP.....	2.8	28	2.0
1975 Federal interim standards ¹	1.5	15.0	3.1
1975 California standards ¹9	9.0	2.0
1976 Federal standards ¹41	3.4	2.0
1977 Federal standards ¹41	3.4	.4

¹ Using the 1975 Federal Test Procedure (1975 FTP).

² Using the 1972 Federal Test Procedure (1972 FTP).

The Committee on Public Works is not unaware of the implications of this proposed legislation. Much controversy has surrounded the technology which the auto industry selected to meet statutory emission control requirements. While the catalyst controversy alone raises sufficient questions to urge moderation on the part of the Senate and the Congress, there are other issues regarding emission control requirements.

The Committee was concerned with the questions raised about public health-related air quality requirements, fuel economy, oxides of nitrogen emission controls, nitrogen dioxide air quality standards, and transportation control strategies. An examination of the Committee's concerns with each of these issues is appropriate in this report.

AIR QUALITY IMPROVEMENT

The Committee finds that the evidence indicates the need to continue efforts to reduce air pollution emissions from automobiles. This finding is confirmed in a preliminary report to the Committee from the National Academy of Sciences which concludes regarding present public-related standards of air quality:

Present knowledge of health effects appears to afford no compelling basis for suggestions to either raise or lower the currently mandated primary air quality standards at this time.

During the Committee's most recent hearings, the Administrator of the Environmental Protection Agency made the following statement:

First, if we were to postpone the requirements for automotive emissions for a year, the nation's overall momentum in achieving health-related air quality standards would suffer. As indicated above, a postponement would require that some transportation control plans would have to be made more stringent.

The Assistant Administrator for Research and Monitoring confirmed the need to continue to reduce auto emissions in response to a question from Senator Muskie:

Dr. GREENFIELD. I have already testified, Mr. Chairman, the ambient air quality standards as they were set in 1971 were not based on a completely adequate data base for the total population of the United States. As a result, we had to make a very hard decision; namely, how do we protect the population of the United States when we don't have sufficient data to set adequate safety factors?

As a result of that condition, we set the standards predicated on defending or protecting the most susceptible portion of the population, that portion of the population which is affected by chronic respiratory diseases, by asthma or who are suffering from a chronic heart condition.

Hence, it was on these data that the standards were set.

A great safety factor was not applied to the standards because the understanding was put forward that if we can protect the most susceptible people, then we are protecting, with a larger safety factor, the rest of the population of the United States. You never feel comfortable with that, but, if you are going to err, you have to err on the side of conservatism to protect the population of the United States.

I feel relatively comfortable with the standards that were set. I think we have taken a large step in protecting the health of the population of this country.

More data, as it has become available, as I indicated, would point to setting more stringent standards. When that data is amenable to full analysis, we will probably set more stringent standards. At least the criteria document certainly will be examined at that point.

Senator MUSKIE. Let me put the question a different way: In terms of requirements of public health, do you think a reasonable case could be made for relaxing the ambient air quality standards that were set in the 1970 act?

Mr. GREENFIELD. No, sir, I do not.

The available evidence from the Environmental Protection Agency, the National Academy of Sciences and from other independent sources indicates that public health-related air quality standards are no more stringent than needed to protect the health of sensitive groups in our population from the adverse impact of air pollution.

The Committee intends to continue its investigation of the validity of health standards which are the basis for the control requirements of the Act. A final report from the National Academy of Sciences on the validity of present standards will be available in August, 1974.

This report and associated reports from the Academy on the feasibility of technology to control oxides of nitrogen emissions and on the costs and benefits of alternative strategies to achieve air quality standards will provide the Committee with a basis for an evaluation of a number of aspects of the Clean Air Act, including statutory auto emission standards and transportation control strategy requirements.

THE UNREGULATED EMISSIONS CONTROVERSY

Conflicting evidence was presented to the Committee on the potential impact of unregulated emissions from catalyst-equipped vehicles.

One serious question relates to emissions of sulfates and sulfuric acid from catalyst-equipped vehicles. While there is considerable disagreement as to the validity and implications of available data, the Environmental Protection Agency scientists and contractors have found significant emissions of sulfates and sulfuric acid in tests on catalyst-equipped vehicles. Projections made by agency researchers from this data indicate a potential for roadside concentrations of sulfates and sulfuric acid in excess of those levels required to assure protection of public health.

Information provided the Committee indicates that these projections were based on insufficient evidence and did not justify action by the Committee which would delay the introduction of catalysts. In addition, the Committee received a study from the California Air Resources Board which indicates that sulfates emissions from catalysts would not cause excessive concentration of these pollutants. There are several options to deal with the sulfate problem beyond taking a backward step in the effort to clean up automobiles:

If a sulfate emission problem does exist, EPA has several courses of action available to solve the problem and still permit the use of catalysts. These include reducing the sulfur-content levels of lead-free gasoline and modifying the cata-

lytic process to prevent excessive sulfate formation. (Letter to Editor of Washington Star-News from Administrator Russell Train, November 27, 1973)

There is also evidence that a portion of present gasoline production is essentially sulfur free.

Finally, available information indicates that many vehicles produced in 1975 would not require catalysts to achieve interim standards because of their size. Witnesses from the auto companies testified that smaller cars could be designed and built without catalysts and without a loss of fuel economy and still comply with interim standards. This will mean that at least 25% and perhaps a much greater percentage of cars sold in 1975 and 1976, may not require catalysts.

Present marketing trends in the industry show that smaller cars will have a large portion of the market by 1975 and 1976. Thus catalyst-equipped vehicles will have a significant on-the-road test without a total national or industry commitment to the technology.

The Environmental Protection Agency is committed to a major field test of the unregulated emissions and other effects of catalyst control systems in California in late 1974 and early 1975. *Reports of this full field investigation should be made available to the Congress by April, 1975.*

Another issue is emission of potentially toxic noble metal compounds. While no substantiated data was submitted as to emissions of such compounds, the Committee expects the Environmental Protection Agency, the auto and catalyst manufacturers to direct adequate resources to monitoring and evaluation of this question to ascertain whether pollutants such as platinum compounds are released from catalyst-equipped vehicles in actual use.

The Committee underscores the need to continue the development of alternative pollution control strategies and alternative engine systems which have inherently low emissions. *Should the concerns expressed regarding unregulated emissions be borne out in field tests and should other alternatives such as desulfurization of oil prove impractical, the Congress will want options available which would permit immediate abandonment of catalyst technology on the model years subsequent to 1976.*

FUEL ECONOMY

Much controversy exists regarding fuel economy or diseconomy associated with auto emission standards required for 1975 and subsequent model year vehicles.

There are two issues involved: the first is the extent to which there will be a significant penalty in crude oil requirements associated with the manufacture of lead-free gasoline. The second is the extent of the penalty or savings associated with catalyst-equipped vehicles.

As to crude penalty, a representative of Exxon Corporation, Mr. Frederick D. Dennstedt, testified on November 6, that:

In the case of 1975 and 1976 cars, we should be able to make a minimum 91 octane unleaded gasoline with very little or essentially no additional crude requirement, in effect by rearranging the components and assuming that we have no

major limits on tetraethyl leads in the remaining crudes because there is some loss of octane as you rearrange the components to make lead free gasoline.

Earlier Mr. John K. McKinley of Texaco testified:

If it is necessary to increase [a typical gasoline base pool quality unleaded of 88 RON] to 91, a loss of 1.7 volume percent in total gasoline avails is experienced. This is equivalent to an additional requirement of crude run in a refinery of 0.8 percent and is the penalty Texaco has assigned in its calculations for increased crude demand for the manufacture of unleaded gasoline.

On November 5, Dr. D. H. Clewell of Mobil also testified:

Making 91 octane unleaded gasoline instead of some other case, and the number will vary on what we are comparing—instead of making 91 octane gasoline with a small amount of lead in it would be about a one percent sacrifice in crude.

The Committee is satisfied that the fuel penalty associated with production of lead-free gasoline, if any, is not a sufficient justification for abandoning our clean car efforts. If the oil industry were called upon to produce lead-free, high octane gasoline for high compression engines, the crude penalty would be unacceptable. But this is not the case. Most companies today are producing the 91 octane low lead gasoline required for the low compression vehicles which have dominated the U.S. market since 1970, when the auto industry voluntarily lowered compression ratios in order to provide an incentive for introduction of low octane gasoline and the associated distribution system.

Most companies now have the distribution system available for unleaded low octane gasoline.

Also, all available evidence indicates that the clear pool—that is, the lead free basic pool of gasoline—has an average octane rating of almost 89 RON. Some calculations place that clear pool as high as 90 RON. Whatever the precise octane rating of the clear pool, it appears that the crude penalty associated with manufacturing lead-free gasoline and meeting demands of 1976-76 vehicles equipped with catalysts is minimal. In this context the Committee will examine the implications of lead phase-down regulations during hearings early next year.

On the other hand, there is little controversy as to the fuel economy relationship between 1975 and 1974 cars. Virtually all testimony received by the Subcommittee on Air and Water Pollution and the Senate Committee on Public Works this year indicates that the poorest fuel economy was achieved with 1973-74 vehicles, in part as a result of exhaust gas recirculation required to reduce oxides of nitrogen levels in intermediate and large cars.

The auto industry testified that the catalyst would permit an increase in engine efficiency and thus a decrease in fuel use. The auto companies agreed that the use of catalysts could permit up to a 5 percent to 6 percent increase in fuel economy depending on the efficiency of the post-combustion emission control system and the extent to

which the engine is "detuned" from an emission point of view to maximize fuel economy and performance. General Motors and the Environmental Protection agency have placed this fuel economy improvements at anywhere from 13 to 18%.

The Committee believes on the basis of the evidence cited that implementation of the 1975 interim standards would result in improvement of both emission control and fuel economy.

OXIDES OF NITROGEN

On November 27, 1973, the Environmental Protection Agency delivered to the Committee on Public Works a proposed recommendation for a new statutory standard for oxides of nitrogen. The Committee considered and rejected a proposal to incorporate the Agency recommendation in this legislation.

The Committee determined that adoption of a new emission standard for oxides of nitrogen on the basis of an EPA report on which hearings had not been held would be premature. The Committee believes testimony from public and private groups should be received prior to any decision on the oxides of nitrogen issue.

The Committee was also concerned that the studies contracted with the National Academy of Sciences would not be completed until the middle of next year and that a long range oxides of nitrogen decision should await completion of the National Academy of Sciences' study. Recently published studies by the Japanese (which are the basis for adoption of a nitrogen dioxide air quality standard for Japan considerably more restrictive than the standards applicable in the United States), require evaluation.

The Committee believes that the Agency should review in detail those studies and their premises and provide a more complete commentary on the extent to which they may be relevant for consideration in the United States. Such a report should be made to the Congress by January 15, 1974, so that it may be considered during hearings to be scheduled on this issue.

The Committee will hear testimony during the latter part of January on the development of oxides of nitrogen control technology. Witnesses will include alternative engine manufacturers and reduction catalyst manufacturers. Testimony will also be taken from the scientific community on the relationship of NO_x emissions to atmospheric oxidants and nitrates, and a full examination of the premises of the EPA recommendation will be made.

The Committee expects to consider, during those hearings, the question of control of stationary sources of oxides of nitrogen emissions in order to determine the extent to which reliance on stationary source controls is an adequate supplement to auto emission control requirements in terms of achieving health protective levels of ambient air quality.

Finally, the Committee will attempt to ascertain the extent to which monitoring methods adopted by the Environmental Protection Agency as the basis for their recommendation provide a reasonable basis for determination of existing and projected levels of nitrogen dioxide in the ambient air.

IMPLICATIONS FOR TRANSPORTATION CONTROLS

The decision by the Committee must also be evaluated as it relates to transportation control requirements adopted pursuant to Title I of the Clean Air Act.

The one year postponement of the statutory standards for hydrocarbons and carbon monoxide and the interim standard for oxides of nitrogen may result in increased restrictions on motor vehicle travel in regions with critical automobile-related air quality problems.

Maintenance of the statutory hydrocarbon and carbon monoxide standards for 1976 would only require a 13 percent reduction in vehicle miles traveled in the Washington, D.C. area in order to achieve ambient air quality standards protective of health. But, extension of the interim 1975 standards for one year will require a greater reduction in vehicle miles traveled. The Committee is aware of these implications of this decision on regional air quality control programs. However, the need to resolve unanswered questions regarding widespread use of catalysts, as well as fuel economy issues, dictates a cautious approach. Two years of experience with the Federal interim standards should significantly enhance the knowledge of catalyst performance and potential impact of unregulated emissions.

The Committee will evaluate the extent to which this postponement seriously impairs achievement of ambient standards by statutorily established deadlines as well as more general questions regarding transportation control strategies early next year.

COMMITTEE VIEWS

On the basis of the information available, the Committee concludes that prudence dictates continuation of the 1975 interim auto emission standards for one additional year. The Committee believes that the momentum to clean up auto exhausts, developed as a result of the Clean Air Act Amendments of 1970, must be maintained and that this one year extension of 1975 interim standards will maintain that momentum.

The opportunity for the auto industry to better understand and perfect proposed emission control systems may enhance their ability to achieve difficult statutory standards while minimizing loss of fuel economy, performance and driveability.

Also, the 1975 interim emission standards represent a substantial improvement over 1973-74 standards. Emissions of carbon monoxide and hydrocarbons from the 1975 car will be reduced by nearly 50% below those of 1973-1974 cars. At the same time, fuel economy may be enhanced by catalyst systems. An extra year will provide time to answer outstanding questions regarding unregulated emissions from catalyst-equipped vehicles, as well as the validity of present ambient air quality standards and statutory emission requirements.

Finally, because this legislation extends the Federal interim standards as they now exist for both California and the other 49 States, it will permit a full field evaluation of catalyst technology in California in late 1974-75. The Committee recommends the adoption of the approach contained in this legislation.

HEARINGS

During 1972 and 1973, the Subcommittee on Air and Water Pollution has conducted extensive oversight activities focused specifically on the implementation of auto emission standards established under Title II of the Clean Air Act. In 1972, hearings were held on March 25 (in Los Angeles, California), March 27 and 28, and May 22 in Washington, D.C. Oral testimony was received from the following 27 witnesses:

Adamson, John, vice president, engineering, American Motors Corp.
 Allen, George, Deputy Assistant Administrator for Enforcement, Environmental Protection Agency
 Barber, Richard J., counsel to the Committee on Motor Vehicle Emissions, National Academy of Sciences
 Chass, Robert, air pollution control officer, Los Angeles County Air Pollution Control District
 Crocker, Timothy, College of Medicine, University of California at Irvine
 Gammalgard, P. N., Sr., vice president, public and environmental affairs, American Petroleum Institute
 Ginzton, Dr. Edward, chairman, Committee on Motor Vehicle Emissions, National Academy of Sciences
 Greenfield, Dr. Stanley M., Assistant Administrator, for Research and Monitoring, Environmental Protection Agency

Hahn, Kenneth, supervisor, Los Angeles County Board of Supervisors
 Handler, Philip, president, National Academy of Sciences
 Hass, G. C., chief, Vehicle Emissions Control Board, Los Angeles
 Harlan, John G., president, Engelhard Industries
 Harris, Ellen Stern, member, California State Environmental Quality Study
 Council, member, Los Angeles Environmental Quality Control Committee, and
 the Council for Planning and Conservation
 Hartley, Fred, president, Union Oil Co., of California
 Hawkins, David, Natural Resources Defense Council
 Jensen, Donald A., director, Automotive Emissions Office, Ford Motor Co.
 John, Dr. James E., executive director to the Committee on Motor Vehicle
 Emissions, National Academy of Sciences
 Lees, Lester, director, Environmental Quality Laboratory, California Institute
 of Technology, Pasadena, Calif.
 Lewis, Ben, mayor, Riverside, Calif.
 Perry, Ralph, chairman, Coalition for Clear Air
 Pitts, James N., Jr., Statewide Air Pollution Research Center, University of
 California at Riverside
 Ruckelshaus, Hon. William D., Administrator, Environmental Protection Agency
 Schabarum, Peter F., Los Angeles County Board of Supervisors
 Starkman, Ernest S., vice president, environmental activities staff, General
 Motors Corp.
 Stork, Erick, Director, Mobile Pollution Control Division, Office of Air Pro-
 grams, Environmental Protection Agency
 Terry, Sydney L., vice president, environmental and safety relations, Chrysler
 Motors Corp.
 Van De Verg, Nathaniel, chairman, Sierra Club, Los Angeles Chapter, Air
 Pollution Subcommittee

Twenty-three additional statements were submitted for inclusion in the hearing record.

In addition to these public hearings, an executive session was held on June 2 at which representatives of the Environmental Protection Agency discussed potential violations by the auto companies in implementing the Clean Air Act.

In 1973, the Subcommittee held 12 days of hearings at which 18 witnesses discussed the implications of the decision of the Administrator of the Environmental Protection Agency to grant the auto manufacturers a one-year delay in meeting the Clean Air Act's 1975 auto emission standards.

On April 16, 17 and 18, William Ruckelshaus, then Administrator, presented formally his decision regarding the suspension. The Subcommittee then heard the testimony of the National Academy of Sciences, followed by representatives of auto companies, catalyst manufacturers, and oil industry regarding the technological feasibility of compliance with the statutory standards. The following witnesses testified on May 14, 17, 18, 21, 23, 31 and June 26 and 27:

Brown, C. R., vice president and general manager, Mazda Motors of America
 Chapman, Charles S., chief engineer, Adam Opel
 DePalma, Ted V., technical director, Universal Oil Products Co.
 Ginzton, Dr. Edward L., Chairman, Committee on Motor Vehicle Emission,
 National Academy of Sciences
 Grossman, Michael, technical director, Peugeot, Inc.
 Handler, Dr. Philip, President, National Academy of Sciences
 Hutcheson, Dr. John A., Vice Chairman, Committee on Motor Vehicle Emissions,
 National Academy of Sciences
 Ikemi, Kiyoshi, public relations manager, Honda Motor Co. Ltd.
 Isko, Irving D., vice president and general counsel, Englehard Minerals and
 Chemicals Corp.
 Keith, Dr. Carl D., senior vice president, chemical operations, Englehard
 Industries

Kume, Tadashi, managing director, Honda Motor Co.
 Leventhal, Robert S., executive vice president, Englehard Industries
 McDermott, Edward A., Washington counsel, Mercedes-Benz
 McGifferet, David E., Washington counsel, Honda Motor Co.
 Mitsunari, Dr. Takushi, manager, testing and research division, Toyo Kogyo, Co., Ltd.
 Montmarin, Pieere de, president, Peugeot, Inc.
 Morikawa, Jiro, president, Mazda Motors of America
 Nolan, Dr., John E., Executive Director, Committee on Motor Vehicle Emissions, National Academy of Sciences
 Nordman, Karlfried, president, Mercedes-Benz of North America
 Paine, Peter S., Jr., counsel, Peugeot, Inc.
 Price, W. Robert, Jr., vice president, corporate development, Universal Oil Products Co.
 Rosenthal, Milton F., president and chief executive officer, Englehard Minerals and Chemicals Corp.
 Smoot, Ronald N., counsel, Honda Motor Co.
 Sugiura, Hideo, director, Honda Motor Co.
 Van Winsen, Friedrich, director, passenger car design and development, Mercedes-Benz of North America
 Webber, William L., legal staff, General Motors Corp.
 Yamamoto, Kenichi, director, rotary engine division, Toyo Kogyo Co., Ltd.
 Bidwell, Joseph B., special assistant to the president, General Motors Corp.
 Cole, Edward N., president, General Motors Corp.
 Heinen, Charles, executive engineer, material engineering, Chrysler Corp.
 Hilder, Frazer F., associate general counsel, legal staff, General Motors Corp.
 Iacocca, Lee, president, Ford Motor Co.
 Loofbourrow, Alan, vice president, engineering and research Chrysler Corp.
 Misch, Herbert, vice president, environmental and safety engineering, Ford Motor Co.
 Riccardo, John J., president, Chrysler Corp.
 Seacrest, Fred, executive vice president, operations staff, Ford Motor Co.
 Starkman, Ernest S., vice president, environmental activities staff, General Motors Corp.

Twenty-one additional statements were submitted for inclusion in the hearing record.

Members of the Subcommittee also participated in three executive sessions related to auto emission standards, on June 15, June 29 and July 10.

Subsequently, the full Committee on Public Works held two days of auto hearings, on November 5 and 6, at which the following witnesses testified:

Honorable Henry L. Bellmon, A United States Senator from the State of Oklahoma
 John J. Riccardo, President, Chrysler Corporation.
 Herbert L. Misch, Vice President, Safety and Environmental Engineering, Ford Motor Company
 Edward N. Cole, President, General Motors Corporation
 Dr. D. H. Clewell, President, Mobil Research and Development Corporation
 Edward J. Gornowski, Vice President, Esso Research and Engineering Company, accompanied by Frederick D. Dennstedt, Vice President, Refining Department, Exxon Company, U.S.A.
 David G. Hawkins, Natural Resources Defense Council
 Laurence I. Moss, President, Sierra Club
 Honorable Russell E. Train, Administrator, Environmental Protection Agency
 Clarence M. Dittlow, III, Public Interest Research Group

Twenty-nine additional statements were received for inclusion in the hearing record.

Following these hearings, the Members of the Committee participated in four executive sessions on November 7, 15, 27 and 28, which

resulted in approval of a Clean Air Act amendment to extend the 1975 interim auto emission standards for one year.

COST OF LEGISLATION

Section 252(a) (1) of the Legislative Reorganization Act of 1970 requires publication in this report of the Committee's estimate of the costs of the reported legislation, together with estimates prepared by any Federal agency. There is no expenditure of funds authorized by this legislation. The adoption of this legislation may in fact save Federal funds by maintaining the same certification requirements and procedures for two model years.

ROLLCALL VOTES

The Committee conducted four rollcall votes during the consideration of this legislation. All took place on November 28, 1973, the day on which the Committee ordered reported this bill. Pursuant to section 133 of the Legislative Reorganization Act of 1970 and the Rules of the Committee on Public Works, these votes are announced here.

Senator Domenici moved the adoption of legislation to maintain the 1975 interim auto emission standards through the 1976 model year, postponing the achievement of the statutory standards for hydrocarbons and carbon monoxide, and to modify the statutory standards for oxides of nitrogen to 2.0 grams per mile applicable to 1977 and subsequent model year automobiles.

Senator Scott proposed as a substitute for that motion that the Committee adopt section 4 of S. 2539, postponing for two years the effective date of the statutory auto emission standards. The substitute failed, 2-12, with Senators Baker and Scott voting in the affirmative and Senators Bentsen, Biden, Buckley, Burdick, Clark, Domenici, Gravel, McClure, Montoya, Muskie, Randolph, and Stafford voting in the negative.

Senator Domenici agreed to submit his proposal to separate votes on the two parts. The first portion, to maintain the 1975 interim standards through the 1976 model year, carried, 11-3, with Senators Baker, Bentsen, Buckley, Burdick, Domenici, Gravel, McClure, Montoya, Randolph, Scott, and Stafford voting in the affirmative and Senators Biden, Clark, and Muskie voting in the negative.

The second portion of Senator Domenici's proposal, providing a modification of the 1977 statutory emission standards for oxides of nitrogen to 2.0 grams per mile, failed, 7-7, with Senators Buckley, Burdick, Domenici, Gravel, McClure, Randolph, and Scott voting in the affirmative and Senators Baker, Bentsen, Biden, Clark, Montoya, Muskie, and Stafford voting in the negative.

Senator Buckley moved to amend the proposed legislation to allow automobile manufacturers to sell cars meeting the 1974 automobile emission standards during model year 1975 upon the payment of a penalty of \$75.00 per car. The motion failed, 6-7, with Senators Bentsen, Buckley, Domenici, Gravel, McClure, and Randolph voting in the affirmative and Senators Biden, Burdick, Clark, Montoya, Muskie, Scott, and Stafford voting in the negative.

The bill was ordered reported by a unanimous voice vote.

SUPPLEMENTAL VIEWS OF MR. BUCKLEY

The recent decision by the Committee regarding automobile emissions standards presented me with one of the most difficult choices I have had to make since entering the United States Senate. It required making judgments as to a variety of technological, economic, manufacturing and health issues, often on the basis of conflicting testimony—judgments which are by and large beyond the technical competence of this Committee. Our responsibility is to make pollution control policy; we do not make automobiles. Granted that substantial technical testimony was presented to the Committee at hearings, and that much information was made available to individual members and our staffs. This information, with few exceptions, was provided by interested parties: the automobile manufacturers (who were divided) and the oil companies (who were not). EPA, which may have come closest to being disinterested, appeared to subordinate scientific advice with respect to technology to policy advice with respect to air quality standards. "Environmental" witnesses tended to understate the social and economic costs of achieving clean air while overstating the costs of any postponement of statutory targets.

The balancing judgment faced by the Committee is a responsibility which, in the normal exercise of government regulatory policy, Congress typically vests in the executive branch. Indeed, less than 8 months ago, the Administrator of the Environmental Protection Agency was faced with an almost identical decision. On April 11 Administrator Ruckelshaus opened his "Summary of Decision" with the statement: "As I view this decision, the issue before me is essentially the most reasonable method by which necessary technology will be installed on automobiles to meet the statutory standards."

What this Committee faced was essentially an appeal of the Administrator's judgment with respect to the application of emission technology. In a few short months, the evidence on which he acted had sufficiently changed to warrant another review of the reasonableness of federal standards for 1975 model automobiles.

The new factors were twofold: (1) meeting the interim standards now appears to require a nearly total reliance on the new catalyst technology, as to which some manufacturers have serious reservations; and (2) the country is in the grips of an "energy crisis."

With the announcement by EPA Administrator Train on November 6 that he would adhere to the interim standards established for model year 1975, the administrative "string" had run out. Any change in the standards would now have to be made by Congress. Only two choices were available: to proceed to the interim 1975 standards, or to retain the standards applicable to 1973-74 model cars. The first choice necessitates the application of the catalyst technology to a substantial proportion of 1975 model production.

I voted to proceed to the interim 1975 standards because, on balance, I believe this policy (1) will contribute significantly to progress towards the goal of clean air and (2) will result in a net savings of petroleum fuel over the continuation of the 1974 standards.

The legislative "package" offered for the consideration of the Committee included two main features: 1) fixing the interim 1975 standards for two model years (1975 and 1976), and 2) setting a new statutory standard for oxides of nitrogen at 2.0 grams/mile beginning in model year 1977 (the present statutory NO_x standard is set at 0.4 g/m beginning in 1977), but providing for administrative discretion to tighten that standard in subsequent years based on a reassessment of the impact of nitrogen oxides on health.

For purposes of voting, the Committee divided this proposal into its two component parts. I voted in favor of both features. The two year freeze of the 1975 interim standards succeeded; the establishment of a new statutory NO_x standard failed.

I favor the continuation of the 1975 standards for one extra year because I believe it important to provide corporate planners with a degree of stability that is necessary to perfect the technology for automobile emission control. I also believe that manufacturers should know at this time what the standards will be for model year 1976 automobiles in order to design emission controls for nitrogen oxides that are technically compatible with the controls that will be in place for hydrocarbons and carbon monoxide in model 1975 cars. As Mr. Cole of General Motors testified on November 5: "By August 1974, we will be in production on 1975 models and we simply cannot wait until August 1974 or later to make final commitments on our 1976 control system."

I favored setting the statutory standard for oxides of nitrogen at 2.0 g/m, rather than retaining the 0.4 g/m standard for model year 1977 for two reasons. One was, again, to signal a degree of stability for planning purposes. Based on my understanding of the testimony before the Committee, a level of 2.0 g/m for NO_x is the one which appears to encourage the pursuit of the broadest range of technological options for achieving emission controls, including alternatives to the catalyst. Manufacturers claim that they do not see how the catalyst system, at this point in its development, can succeed in meeting 0.4 g/m NO_x in each and every vehicle. Furthermore, while the diesel engine can meet low HC and CO standards with relative ease, testimony before the Committee indicates it is very difficult to achieve a NO_x standard of less than 2.0 g/m. With regard to the Mercedes diesel, Mr. van Winsen of Daimler-Benz told us: "In the long run, it seems to me we could achieve 1.5 grams per mile NO_x ."

The need to aim at about 2.0 g/m standard for NO_x in order to pursue the stratified charge technology was repeatedly emphasized at our recent hearings by Mr. Misch of Ford Motor, who stated: "... if by the end of the year or thereabouts Congress would see it appropriate to establish a NO_x level of about two grams, then we can pursue an alternate engine program."

On the other side of the coin, the emerging evidence regarding the contribution of NO_x emissions from automobiles suggests that relaxing the statutory NO_x standard would not have a measurable adverse effect on the level of NO_x in the ambient air and would not thereby increase the adverse health hazard from that pollutant.

This is the tentative conclusion of the Environmental Protection Agency upon reexamination of measurement techniques which now indicate that the extent of NO_x pollution as a public health problem had been previously overstated. On November 26, EPA Administrator Train tentatively recommended to the Committee that EPA rescind the statutory NO_x standard and retain the 2.0 g/m standard for NO_x .

Despite these compelling reasons, the Committee failed, by a tie vote, to adopt a standard of 2.0 g/m for oxides of nitrogen. All members of the Committee recognize, however, that the NO_x issues must be reviewed in the near future, and hearings are expected to commence early in the next session of Congress.

To complement the "package" which is described above, I offered an amendment to be regarded as part of the entire proposal. During the recent hearings, many witnesses expressed sincere and deep misgivings about the practical success of the catalyst technology which will be applied, for the first time in everyday use, on most of the 1975 model year production. In view of the fears expressed, and in spite of the enthusiasm of General Motors for its catalyst technology, my amendment, which would have permitted the option of retaining the 1974 emission standards upon payment of a penalty of \$75 per car (equivalent to the estimated cost of the catalyst device alone), seemed to be a prudent response to the possibility of failure of the catalyst in practical use. The penalty would be far preferable to the "nuclear deterrent" of foreclosing the sale of all automobiles which failed to meet the 1975 standards.

It would also have offered a significant inducement to the development of alternative ways of attaining the 1975 interim standards.

Given the confidence expressed by General Motors in the performance of its own catalyst technology to improve fuel economy and driveability, it is anticipated that GM would still have chosen to use the catalyst while Chrysler and Ford would be free to continue producing cars which meet the 1974 standards for those heavier models which would otherwise require catalysts. One effect of the \$75 penalty would be to moderate the competitive disadvantage between those manufacturers which were clearly capable of meeting the 1975 interim standards and those who maintained serious reservations as to the performance of the catalyst in daily use.

At this point, I would like to voice my own reservations about the long-term viability of the catalyst technology in controlling emissions. The catalyst is essentially an add-on device which permits the engine to operate in a "dirty" mode. Except for the catalyst, at least in GM cars, the engine is essentially "uncontrolled" with respect to emissions. Therefore, it is the catalyst and not the engine which bears the full weight of emission control. To maintain the catalyst in peak working order will require a substantial cost to the government and to the car owner in inspection and maintenance routines. Furthermore, the catalyst's successful performance is dependent on the widespread availability of no-lead gasoline.

Other technologies, which are achievable in the very short run, such as diesel engines or stratified charge engines, "want" to run with low emissions. It is the normal mode for those engines. Furthermore, greater fuel economy is associated with each of these alternatives.

Both of these factors—low emissions and fuel economy—can be attributed to the simple fact that they burn the fuel more efficiently and, hence, waste less. I venture that it can be demonstrated that in the long run the present standards can be met more efficiently with alternative engines.

I am also troubled by the emerging evidence that the catalyst may contribute to the formation of sulfates and sulfuric acid mists, due to the sulfur in the gasoline. The Environmental Protection Agency admits a potential problem exists after two model years with catalysts. Technical experts from the oil industry seem agreed that the relevant atmospheric chemistry, and the contribution of the catalyst, is clouded in mystery at this time. Some suggest that gasoline could and should be desulfurized if the sulfate problem proves serious. This would, however, substantially add to the total cost of adopting the catalyst technology over some alternative which would not pose the sulfates problem.

During our deliberation, this Committee was faced with vexing technical problems and with conflicting testimony with regard to the energy benefits and penalties associated with the need to refine unleaded gasoline.

It is clear, however, that the penalties are more than offset by the greater fuel efficiencies in the 1975 interim standard cars, made possible by catalytic converters.

It is my hope that some of the inconsistencies in testimony will be resolved for us by the studies which the Committee has contracted to the National Academy of Sciences for completion in August 1974. The Committee recognized that the work being undertaken would not be available for the decision which we have just made. Nevertheless, I expect that the analyses of the costs and benefits of various strategies for air pollution control will be of great value in any future policy decisions by this Committee.

I was not a member of the Congress when the Clean Air Act of 1970 was enacted. With the obvious benefit of hindsight, the experience associated with meeting the deadlines of the Act confirms my natural inclination that Congress ought to give serious consideration to alternative tools to implement pollution control policy. I have in mind emission charges or penalties, directly related to the amount of pollutant discharged by the offending source. This approach to the problem of what economists call "externalities" may be preferable to the brinkmanship which has been the demonstrable result of the combined effect of statutory deadlines and statutory emission standards as applied to the automobile industry.

I am fully cognizant of the costs which we are asking the consumer to assume in moving to the interim 1975 standards. I believe that, given the available options, it was the best of the available choices. However, I am sufficiently unsettled by this recent decision to want seriously to examine policy alternatives, should our judgment ultimately prove incorrect.

JAMES L. BUCKLEY.

ADDITIONAL VIEWS OF MR. WILLIAM L. SCOTT

While I share the views of the majority that the 1975 interim standards should be extended, the one-year extension, in my opinion, is not for a sufficient period to permit the automobile industry to have a choice of methods within which to reduce air pollutants. I would give them a two to three year extension rather than the one-year provided in this bill.

A number of Senators joined me earlier this year in co-sponsoring S. 2539, which would extend from 1975 to 1977 the requirement for a 90% reduction from the 1970 standards for hydrocarbons and carbon monoxide and extend from 1976 to 1978 a similar 90% reduction in oxides of nitrogen. The Administrator of the Environmental Protection Agency under this bill would in each instance have the authority, in his discretion, to further extend the time element for the reduction of these pollutants in automobile emissions for an additional one year period. Since the Public Works Committee reported the present measure, there has been indication that the Executive Branch of Government also believes the time for which a 90% reduction in pollutants from the 1970 standards should be extended to a greater extent than that specified in the Committee bill.

While we all want to reduce air pollution, it should be coupled with a realistic view of our present energy situation and a recognition of the need of the automobile industry to have sufficient time to develop a clean motor. Therefore, the Senator from Virginia advised the Public Works Committee at the time the Committee bill was reported that he reserved the right to offer an amendment on the floor to further extend the time.

WILLIAM L. SCOTT,
U.S. Senator from Virginia.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

CLEAN AIR ACT

TITLE II—EMISSION STANDARDS FOR MOVING SOURCES

ESTABLISHMENT OF STANDARDS

SEC. 202. (a) Except as otherwise provided in subsection (b)—

(1) The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment causes or contributes to, or is likely to cause or to contribute to, air pollution which endangers the public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d)), whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.

(2) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) (1) (A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or after model year 1975 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light duty vehicles and engines manufactured in model year 1970.

(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1976 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light duty vehicles manufactured during model year 1971 which are not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.

(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to the date of enactment of the Clean Air Amendments of 1970), shall be prescribed by regulation within 180 days after such date.

(3) For purposes of this part—

(A)(i) The term “model year” with reference to any specific calendar year means the manufacturer’s annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If the manufacturer has no annual production period, the term “model year” shall mean the calendar year.

(ii) For the purpose of assuring that vehicles and engines manufactured before the beginning of a model year were not manufactured for purposes of circumventing the effective date of a standard required to be prescribed by subsection (b), the Administrator may prescribe regulations defining “model year” otherwise than as provided in clause (i).

(B) The term “light duty vehicles and engines” means new light duty motor vehicles and new light duty motor vehicle engines, as determined under regulations of the Administrator.

(4) On July 1 of 1971, and of each year thereafter, the Administrator shall report to the Congress with respect to the development of systems necessary to implement the emission standards established pursuant to this section. Such reports shall include information regarding the continuing effects of such air pollutants subject to standards under this section on the public health and welfare, the extent and progress of efforts being made to develop the necessary systems, the costs associated with development and application of such systems, and following such hearings as he may deem advisable, any recommendations for additional congressional action necessary to achieve the purposes of this Act. In gathering information for the purposes of this paragraph and in connection with any hearing, the provisions of section 307(a) (relating to subpenas) shall apply.

(5)(A) At any time after January 1, 1972, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed, by paragraph (1)(A)) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1975.

(B) At any time after January 1, 1973, any manufacturer may file with the Administrator an application requesting the suspension, for one year only of the effective date of any emission standard required by paragraph (1)(B) with respect to such manufacturer. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accord-

ance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1) (B)) to emissions of oxides of nitrogen from such vehicles and engines manufactured during model year 1976.

(C) Any interim standards prescribed under this paragraph shall reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers.

(D) Within 60 days after receipt of the application for any such suspension, and after public hearing, the Administrator shall issue a decision granting or refusing such suspension. The Administrator shall grant such suspension only if he determines that (i) such suspension is essential to the public interest or the public health and welfare of the United States, (ii) all good faith efforts have been made to meet the standards established by this subsection, (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards.

(E) Nothing in this paragraph shall extend the effective date of any emission standard required to be prescribed under this subsection for more than one year.

(6) Notwithstanding the requirements of paragraph (1) of this subsection or the authority granted under paragraph (5) (B) of this subsection, the standards and test procedures applicable to emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen from light duty vehicles and engines manufactured during model year 1976 shall be the standards and test procedures prescribed by the Administrator for light duty vehicles and engines manufactured during model year 1975 pursuant to paragraph (5) (A) of this subsection and section 209 of this Act in his action of April 11, 1973.

(c) (1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the technological feasibility of meeting the emissions standards required to be prescribed by the Administrator by subsection (b) of this section.

(2) Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out the study and investigation authorized by paragraph (1) of this subsection.

(3) In entering into any arrangement with the National Academy of Sciences for conducting the study and investigation authorized by paragraph (1) of this subsection, the Administrator shall request the National Academy of Sciences to submit semiannual reports on the progress of its study and investigation to the Administrator and the

Congress, beginning not later than July 1, 1971, and continuing until such study and investigation is completed.

(4) The Administrator shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by paragraph (1) of this subsection. For the purpose of furnishing such information, the Administrator may use any authority he has under this Act (A) to obtain information from any person, and (B) to require such person to conduct such tests, keep such records, and make such reports respecting research or other activities conducted by such person as may be reasonably necessary to carry out this subsection:

(d) The Administrator shall prescribe regulations under which the useful life of vehicles and engines shall be determined for purposes of subsection (a) (1) of this section and section 207. Such regulations shall provide that useful life shall—

(1) in the case of light duty vehicles and light duty vehicle engines, be a period of use of five years or of fifty thousand miles (or the equivalent), whichever first occurs; and

(2) in the case of any other motor vehicle or motor vehicle engine, be a period of use set forth in paragraph (1) unless the Administrator determines that a period of use of greater duration or mileage is appropriate.

(e) In the event a new power source or propulsion system for new motor vehicles or new motor vehicle engines is submitted for certification pursuant to section 206(a), the Administrator may postpone certification until he has prescribed standards for any air pollutants emitted by such vehicle or engine which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers the public health or welfare but for which standards have not been prescribed under subsection (a).

SENATE DEBATE AND PASSAGE OF S. 2772, DECEMBER 17, 1973

AUTOMOBILE EMISSION STANDARDS

The PRESIDING OFFICER (Mr. Hathaway). Under the previous order, the hour of 12 o'clock having arrived, the Senate will now proceed to the consideration of S. 2772 which the clerk will state.

The second assistant legislative clerk read as follows:

S. 2772, to amend title 2 of the Clean Air Act, as amended.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Debate on this bill is limited to 30 minutes, to be equally divided and controlled by the Senator from Maine (Mr. Muskie) and the minority leader or his designee; with 30 minutes on any amendment, except one to be offered by the Senator from Virginia (Mr. William L. Scott) on which there shall be 1 hour; and with 20 minutes on any debatable motion or appeal.

Mr. MANSFIELD. Earlier today, Mr. President, I indicated that we would very likely lay before the Senate the FEA bill, so-called, as reported from the Committee on Government Operations, at the conclusion of business today, so that it would be the pending business tomorrow.

I am about to change that because I indicated last week that the Flood Control Insurance Act would be taken up on Tuesday, and it may have precedence over the FEA bill.

I make this statement now for the Record in order to let the Senate know that a commitment has been made which will be kept unless a way can be found to avoid it.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Scott amendment be the first amendment in order when we get to that point in the discussion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, this legislation is the result of 18 days of hearings and eight executive sessions devoted to the review of the implications of auto emission standards required as result of Clear Air Amendments of 1970. While the language of the bill is simple, its implications are important and complex.

The legislation extends for an additional year the interim emission requirements which the auto industry must meet for the 1975 model year. The effect of this amendment is to postpone for an additional year, the statutory standards established in 1970 for hydrocarbons and carbon monoxide. This amendment also vacates the 1976 interim NO_x standard.

The Committee on Public Works is not unaware of the implications of this proposed legislation. Much controversy has surrounded the

technology which the auto industry selected to meet statutory emission control requirements. While the catalyst controversy alone raises sufficient questions to urge moderation on the part of the Senate and the Congress, there are other issues regarding emission control requirements.

The committee was concerned with the questions raised about public health-related air quality requirements, fuel economy, oxides of nitrogen emission controls, nitrogen dioxide air quality standards, and transportation control strategies.

This bill would mean something less than a total, national commitment to catalysts—as few as 25 percent and as many as 50 percent of vehicles could meet these standards without catalysts and without fuel economy loss—because noncatalyst cars are small cars.

This bill would vacate 1976 standards which are more stringent than the 1975 interim standards but less stringent than the 1977 standards. Two years' experience with these interim standards will provide ample opportunity to evaluate catalyst issues; evaluate fuel economy questions related to stricter standards; and provide the auto industry with an opportunity to gear their technical efforts and resources to 1977 rather than the present moving target of different standards in 1975, 1976, and 1977.

This bill is a logical outgrowth of the procedure established in the 1970 act; that is, when administrative remedies were exhausted, the Congress would evaluate industry progress and ramifications of the statutory standards. This is the first result of that evaluation. After the NAS studies the committee will have additional recommendations.

The Senate, through the Committee on Public Works, is paying \$500,000 to the NAS to evaluate the need for current auto standards from a public health point of view and an evaluation of the cost effectiveness of alternative strategies to deal with auto emission. This bill will place a hold on auto standards for a sufficient period to evaluate the results of those studies. Any more would prejudice those results—any less would foreclose NAS input.

I would like to discuss the history of the issues with which this legislation deals and the basis for committee proposal.

The 1970 Clean Air Amendments (Public Law 91-604) required that all 1975 model cars achieve a reduction in emissions of hydrocarbons and carbon monoxide of 90 percent over the emissions from 1970 model cars. In **section 202(b)(5)** of the act, the Administrator of the Environmental Protection Agency is authorized to extend the date for compliance with that statutory standard for 1 year, upon a determination that:

(i) such suspension is essential to the public interest or the public health and welfare of the United States; (ii) all good faith efforts have been made to meet the standards established by this subsection; (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards.

The Administrator made such a determination in April of this year. In accordance with the statute, at that time an interim emission requirement for 1975 model year cars was established. Test procedures for

the certification of emission controls on light duty vehicles and engines for model year 1975 have also been established. This legislation provides that the certification procedure for 1976 model cars shall be the same as that for 1975 model cars.

This legislation extends the Environmental Protection Agency interim emission requirements and the implementing test procedures for 1 more year and extends the final date for compliance with the statutory 90-percent reduction of hydrocarbons and carbon monoxide to model year 1977. The statutory standard for oxides of nitrogen will also become effective in model year 1977.

And, this legislation preserves the separate standard established by the administrator for California for model year 1976 as well as model year 1975. The statutory authority for a waiver at the request of the State of California for stricter emission controls in model year 1976 remains in effect.

The available evidence indicates the need to continue efforts to reduce air pollution emissions from automobiles. This finding is confirmed in a preliminary report to the committee from the National Academy of Sciences which concludes regarding present public health-related standards of air quality:

Present knowledge of health effects appears to afford no compelling basis for suggestions to either raise or lower the currently mandated primary air quality standards at this time.

The available evidence from the Environmental Protection Agency, the National Academy of Sciences and from other independent sources indicates that public health-related air quality standards are no more stringent than needed to protect the health of sensitive groups in our population from the adverse impact of air pollution.

The committee intends to continue its investigation of the validity of health standards which are the basis for the control requirements of the act. A final report from the National Academy of Sciences on the validity of present standards will be available in August 1974.

This report and associated reports from the Academy on the feasibility of technology to control oxides of nitrogen emissions and on the costs and benefits of alternative strategies to achieve air quality standards will provide the committee with a basis for an evaluation of a number of aspects of the Clean Air Act, including statutory auto emission standards and transportation control strategy requirements.

Conflicting evidence was presented to the committee on the potential impact of unregulated emissions from catalyst-equipped vehicles.

One serious question relates to emissions of sulfates and sulfuric acid from catalyst-equipped vehicles. While there is considerable disagreement as to the validity and the implications of available data, the Environmental Protection Agency scientists and contractors have found significant emissions of sulfates and sulfuric acid in tests on catalyst-equipped vehicles. Projections made by Agency researchers from this data indicate a potential for roadside concentrations of sulfates and sulfuric acid in excess of those levels required to assure protection of public health.

Information provided the committee indicates that the projections were based on insufficient evidence and did not justify action by the committee which would delay the introduction of catalysts.

Present marketing trends in the industry show that smaller cars will have a large portion of the market by 1975 and 1976. Thus catalyst-equipped vehicles will have a significant on-the-road test without a total national or industry commitment to the technology.

Also, the Environmental Protection Agency is committed to a major field test of the unregulated emissions and other effects of catalyst control systems in California in late 1974 and early 1975. Reports of this full field investigation should be made available to the Congress by April 1975.

Another issue is emission of potentially toxic noble metal compounds. While no substantiated data was submitted as to emissions of such compounds, the committee expects the Environmental Protection Agency, the auto and catalyst manufacturers to direct adequate resources to monitoring the evaluation of this question to ascertain whether pollutants such as platinum compounds are released from catalyst-equipped vehicles in actual use.

The committee underscores the need to continue the development of alternative pollution control strategies and alternative engine systems which have inherently low emissions. Should the concerns expressed regarding unregulated emissions be borne out in field tests and should other alternatives such as desulfurization of oil prove impractical, the Congress will want options available which would permit immediate abandonment of catalyst technology on the model years subsequent to 1976.

Much controversy exists regarding fuel economy or diseconomy associated with auto emission standards required for 1975 and subsequent model year vehicles.

There are two issues involved: the first is the extent to which there will be a significant penalty in crude oil requirements associated with the manufacture of lead-free gasoline. The second is the extent of the penalty or savings associated with catalyst-equipped vehicles.

The committee is satisfied that the fuel penalty associated with production of lead-free gasoline, if any, is not a sufficient justification for abandoning our clean car efforts.

On the other hand, there is little controversy as to the fuel economy relationship between 1975 and 1974 cars. Virtually all testimony received by the Subcommittee on Air and Water Pollution and the Senate Committee on Public Works this year indicates that the poorest fuel economy was achieved with 1973-74 vehicles, in part as a result of exhaust gas recirculation required to reduce oxides of nitrogen levels in intermediate and large cars.

The auto industry testified that the catalyst would permit an increase in engine efficiency and thus a decrease in fuel use. The auto companies agreed that the use of catalysts could permit up to a 5-percent to 6-percent increase in fuel economy depending on the efficiency of the postcombustion emission control system and the extent to which the engine is "detuned" from an emission point of view to maximize fuel economy and performance. General Motors and the Environmental Protection Agency have placed this fuel economy improvement at anywhere from 13 to 18 percent.

The committee believes on the basis of the evidence cited that implementation of the 1975 interim standards would result in improvement of both emission control and fuel economy.

Mr. BAKER. Mr. President, I believe that the hallmark of the bill reported by the committee is realism. I believe it is a realistic approach in these difficult times, when energy is a matter of extraordinary importance to us all. I hope, therefore, to support S. 2772, the bill that the Committee on Public Works has reported to amend the Clean Air Act.

As I stated in a speech on the floor of the Senate on December 10, 1973, the proposed legislation, which would continue for one additional year the 1975 interim standards for emissions of hydrocarbons and carbon monoxide from automobiles, is a workable and fair compromise between the continuing need for clean and healthful air and the need to improve the gas mileage of cars.

Great progress has been made since the enactment of the Clean Air Act Amendments of 1970 in reducing harmful automotive emission of pollutants. The largest percentage reductions in major automotive pollutants will not occur until 1975, however, when the use of the catalyst and other systems will provide improved fuel economy and better driveability as well as clean air. In view of these developments, the burden should be upon those who are urging us to go slow in cleaning up emissions to prove that some overriding public purpose will be served by such delay. The Environmental Protection Agency is not convinced that this burden of proof has been carried and so is recommending that no change in automotive standards be made until next spring at the earliest. Similarly, the Committee on Public Works, after extensive hearings and several markup sessions, determined that only a limited 1 year delay could be justified—mainly to allow an orderly phase-in of new emission control systems, to permit all segments of the industry to keep pace, to allow continued development of automotive emission control systems other than catalyst systems, and to optimize fuel economy in the process.

Mr. President, I urge each of my Senate colleagues, before they consider any more radical surgery on the provisions of the Clean Air Act, to review the mass of data which the committee has weighed in arriving at S. 2772. None of the other options considered by the committee offered sufficient advantages to justify the risks and costs that would be entailed, in our judgment. For example, continuation of the 1973-74 emission standards would have the effect of locking the industry into the lowest point on the fuel efficiency and driveability curves and would block progress toward the first significant levels of emission control. Continuation of the 1975 interim standards for more than 1 year or adjustment of the statutory standard for NO_x control—now scheduled to take effect in 1977—at this time would have prejudged issues on which the committee will have far better information by next year. There has been some consideration of a two-car strategy in which cars in areas with severe air pollution problems would have to meet a more severe standard than those in areas with cleaner ambient air; no one has been able to provide a workable administrative mechanism for such a strategy. Without indicating in any way what the committee is likely to do, I think it is fair to say that the continuing reexamination of the Clean Air Act likely will mean a continuing series of adjustments to the act to reflect the latest state of our knowledge and to minimize the economic and social effects of our progress toward a cleaner environment.

Mr. President, this is the third response of the committee to its pledge to reexamine the Clean Air Act during this Congress. We have engaged the National Academy of Sciences-National Academy of Engineering to review the basis of the health standards under the act by mid-year 1974. We also have provided for short-term variances and longer term changes in implementation plans to permit burning of higher sulfur fuels in powerplants and other stationary sources, with appropriate safeguards to insure installation of pollution control equipment.

Early in the next session, the committee will review the entire question of the nitrogen oxide automotive emission standard, the development of technology to control such emissions, and the relationship of NO_x emissions from automobiles to those from stationary sources. After hearings and examination of all available evidence on the NO_x question, the committee should bring to the Senate the information necessary for responsible action.

In addition to the preamble remarks with respect to the distinguished chairman of the subcommittee and the ranking member, I wish to extend my congratulations and my thanks for his typical cooperation to the chairman of the full committee, Senator Randolph, and to express my appreciation to our colleagues on the committee, on both sides of the aisle, at hearings and in markup, for their excellent cooperation and probing search for a solution to the complex dilemma which presents itself.

It is my understanding that the distinguished Senator from Virginia (Mr. William L. Scott) will offer an amendment to this bill and that, under the terms and provisions of the unanimous-consent order, time has been allocated to that amendment.

I may say that the approach that Senator Scott utilizes, as I understand his amendment, is very similar to the approach of this bill. There are substantial distinctions which I am sure he will explain.

The fact that there is an amendment to this bill in no way discourages me from paying respect and expressing my satisfaction at the substantial unanimity of the approach of the committee; because, in terms of the bill as reported and in terms of the amendment which will be offered by the distinguished Senator from Virginia, we are doing the same thing, in my judgment: We are pursuing in a realistic way our search for a cleaner environment. We are trying to accommodate the agencies of the moment. We are trying to avoid throwing the baby out with the bathwater.

So may I close by extending, once again, my congratulations to the chairman, the chairman of the subcommittee, the ranking member, and all members of the committee for their cooperation in bringing this matter to the floor of the Senate in this legislative form, and to express my desire that we have an early disposition of the matters before us.

MR. WILLIAM L. SCOTT. Mr. President, I am prepared to bring up my amendment, but I yield to the Senator from New York, who is carrying the burden on our side.

MR. BUCKLEY. Mr. President, I appreciate the courtesy of the Senator from Virginia. I shall keep my remarks brief.

In the first instance, I wish to echo the remarks of the Senator from Tennessee as to the deliberate and fair manner in which this committee and the subcommittee has conducted this important work. This is due

in great measure to the attitudes and sense of responsibility of the Senator from Maine and the Senator from West Virginia (Mr. Randolph).

Mr. President, I rise to urge my colleagues to accept the action of the Committee on Public Works regarding emission standards for model years 1975 and 1976 automobiles. On balance, I believe this policy will contribute significantly to progress toward the goal of clean air and, at the same time, result in a net savings of petroleum over the continuation of the 1974 standards. I realize this decision was a very controversial one; it was also a most difficult decision. I believe, however, that the committee's action represents a reasonable resolution of often competing national objectives.

This is a complex matter. The committee has worked conscientiously in an attempt to evaluate all the facts. It has resisted the great pressures of the energy crisis in trying to hack away in a wholesale manner some of the great measures we have enacted in order to make sure we are moving ahead with all due speed, with a balanced approach to all of our national objectives.

The recent decision by the committee regarding automobile emissions standards presented me with one of the most difficult choices I have had to make since entering the U.S. Senate. It required making judgments as to a variety of technological, economic, manufacturing, and health issues, often on the basis of conflicting testimony—judgments which are by and large beyond the technical competence of this committee. Our responsibility is to make pollution control policy; we do not make automobiles. Granted that substantial technical testimony was presented to the committee at hearings, and that much information was made available to individual members and our staffs. This information, with few exceptions, was provided by interested parties: The automobile manufacturers—who were divided—and the oil companies—who were not. EPA, which may have come closest to being disinterested, appeared to subordinate scientific advice with respect to technology to policy advice with respect to air quality standards. "Environmental" witnesses tended to understate the social and economic costs of achieving clean air while overstating the costs of any postponement of statutory targets.

The balancing judgment faced by the committee is a responsibility which, in the normal exercise of government regulatory policy, Congress typically vests in the executive branch. Indeed, less than 8 months ago, the Administrator of the Environmental Protection Agency was faced with an almost identical decision. On April 11 Administrator Ruckelshaus opened his "Summary of Decision" with the statement:

As I view this decision, the issue before me is essentially the most reasonable method by which necessary technology will be installed on automobiles to meet the statutory standards.

What this committee faced was essentially an appeal of the Administrator's judgment with respect to the application of emission technology. In a few short months, the evidence on which he acted had sufficiently changed to warrant another review of the reasonableness of Federal standards for 1975 model automobiles.

The new factors were twofold: First, meeting the interim standards now appears to require a nearly total reliance on the new catalyst

technology, as to which some manufacturers have serious reservations; and two, the country is in the grips of an "energy crisis."

With the announcement by EPA Administrator Train on November 6 that he would adhere to the interim standards established for model year 1975, the administrative "string" had run out. Any change in the standards would now have to be made by Congress. Only two choices were available: to proceed to the interim 1975 standards, or to retain the standards applicable to 1973-74 model cars. The first choice necessitates the application of the catalyst technology to a substantial proportion of 1975 model production.

I voted to proceed to the interim 1975 standards because, on balance, I believe this policy, one, will contribute significantly to progress towards the goal of clean air and, two, will result in a net savings of petroleum fuel over the continuation of the 1974 standards.

The legislative "package" offered for the consideration of the Committee included two main features: One, fixing the interim 1975 standards for two model years (1975 and 1976), and two, setting a new statutory standard for oxides of nitrogen at 2.0 grams/mile beginning in model year 1977—the present statutory NO_x standard is set at 0.4 g/m beginning in 1977—but providing for administrative discretion to tighten that standard in subsequent years based on a reassessment of the impact of nitrogen oxides of health.

For the purposes of voting, the committee divided this proposal into its two component parts. I voted in favor of both features. The 2-year freeze of the 1975 interim standards succeeded; the establishment of a new statutory NO_x standard failed.

I favor the continuation of the 1975 standards for one extra year because I believe it important to provide corporate planners with a degree of stability that is necessary to perfect the technology for automobile emission control. I also believe that manufacturers should know at this time what the standards will be for model year 1976 automobiles in order to design emission controls for nitrogen oxides that are technically compatible with the controls that will be in place for hydrocarbons and carbon monoxide in model 1975 cars. As Mr. Cole of General Motors testified on November 5:

By August 1974, we will be in production on 1975 models and we simply cannot wait until August 1974 or later to make final commitments on our 1976 control system.

I favored setting the statutory standard for oxides of nitrogen at 2.0 grams/mile, rather than retaining the 0.4 grams/mile standard for model year 1977 for two reasons. One was, again, to signal a degree of stability for planning purposes. Based on my understanding of the testimony before the committee, a level of 2.0 grams/mile for NO_x is the one which appears to encourage the pursuit of the broadest range of technological options for achieving emission controls, including alternatives to the catalyst. Manufacturers claim that they do not see how the catalyst system, at this point in its development, can succeed in meeting 0.4 grams/mile NO_x in each and every vehicle. Furthermore, while the diesel engine can meet low HC and CO standards with relative ease, testimony before the committee indicates it is very difficult to achieve a NO_x standard of less than 2.0 grams/mile. With regard to the Mercedes diesel, Mr. van Winsen of Daimler-

Benz, told us: "In the long run, it seems to me we could achieve 1.5 grams/mile NO_x ."

The need to aim at about 2.0 grams/mile standard for NO_x in order to pursue the stratified charge technology was repeatedly emphasized at our recent hearings by Mr. Misch of Ford Motor, Co., who stated:

... if by the end of the year or thereabouts Congress would see it appropriate to establish a NO_x level of about two grams, then we can pursue an alternate engine program.

On the other side of the coin, the emerging evidence regarding the contribution of NO_x emissions from automobiles suggests that relaxing the statutory NO_x standard would not have a measurable adverse effect on the level of NO_x in the ambient air and would not thereby increase the adverse health hazard from that pollutant.

This is the tentative conclusion of the Environmental Protection Agency upon reexamination of measurement techniques which now indicate that the extent of NO_x pollution as a public health problem had been previously overstated. On November 26, EPA Administrator Train tentatively recommended to the committee that EPA rescind the statutory NO_x standard and retain the 2.0 grams/mile standard for NO_x .

Despite these compelling reasons, the committee failed, by a tie vote, to adopt a standard of 2.0 grams/mile for oxides of nitrogen. All members of the committee recognize, however, that the NO_x issues must be reviewed in the near future, and hearings are expected to commence early in the next session of Congress.

To complement the "package" which is described above, I offered an amendment to be regarded as part of the entire proposal. During the recent hearings, many witnesses expressed sincere and deep misgivings about the practical success of the catalyst technology which will be applied, for the first time in everyday use, on most of the 1975 model year production. In view of the fears expressed, and in spite of the enthusiasm of General Motors for its catalyst technology, my amendment, which would have permitted the option of retaining the 1974 emission standards upon payment of a penalty of \$75 per car—equivalent to the estimated cost of the catalyst device alone—seemed to be a prudent response to the possibility of failure of the catalyst in practical use. The penalty would be far preferable to the "nuclear deterrent" of foreclosing the sale of all automobiles which failed to meet the 1975 standards.

It would also have offered a significant inducement to the development of alternative ways of attaining the 1975 interim standards.

Given the confidence expressed by General Motors in the performance of its own catalyst technology to improve fuel economy and driveability, it is anticipated that GM would still have chosen to use the catalyst while Chrysler and Ford would be free to continue producing cars which meet the 1974 standards for those heavier models which would otherwise require catalysts. One effect of the \$75 penalty would be to moderate the competitive disadvantage between those manufacturers which were clearly capable of meeting the 1975 interim standards and those who maintained serious reservations as to the performance of the catalyst in daily use.

At this point I would like to voice my own reservations about the long-term viability of the catalyst technology in controlling emissions. The catalyst is essentially an add-on device which permits the engine to operate in a "dirty" mode. Except for the catalyst, at least in GM cars, the engine is essentially "uncontrolled" with respect to emissions. Therefore, it is the catalyst and not the engine which bears the full weight of emission control. To maintain the catalyst in peak working order will require a substantial cost to the Government and to the carowner in inspection and maintenance routines. Furthermore, the catalyst's successful performance is dependent on the widespread availability of no-lead gasoline.

Other technologies, which are achievable in the very short run, such as diesel engines or stratified charge engines, "want" to run with low emissions. It is the normal mode for those engines. Furthermore, greater fuel economy is associated with each of these alternatives. Both of these factors—low emissions and fuel economy—can be attributed to the simple fact that they burn the fuel more efficiently and, hence, waste less. I venture that it can be demonstrated that in the long run the present standards can be met more efficiently with alternative engines.

I am also troubled by the emerging evidence that the catalyst may contribute to the formation of sulfates and sulfuric acid mists, due to the sulfur in the gasoline. The Environmental Protection Agency admits a potential problem exists after 2 model years with catalysts. Technical experts from the oil industry seem agreed that the relevant atmospheric chemistry, and the contribution of the catalyst, is clouded in mystery at this time. Some suggest that gasoline could and should be desulfurized if the sulfate problem proves serious. This would, however, substantially add to the total cost of adopting the catalyst technology over some alternative which would not pose the sulfate problem.

During our deliberation, this committee was faced with vexing technical problems and with conflicting testimony with regard to the energy benefits and penalties associated with the need to refine unleaded gasoline.

It is clear, however, that the penalties are more offset by the greater fuel efficiencies in the 1975 interim standard cars, made possible by catalytic converters.

It is my hope that some of the inconsistencies in testimony will be resolved for us by the studies which the committee has contracted to the National Academy of Sciences for completion in August 1974. The committee recognized that the work being undertaken would not be available for the decision which we have just made. Nevertheless, as expected that the analyses of the costs and benefits of various strategies for air pollution control will be of great value in any future policy decisions by this committee.

I was not a Member of the Congress when the Clean Air Act of 1970 was enacted. With the obvious benefit of hindsight, the experience associated with meeting the deadlines of the act confirms my natural inclination that Congress ought to give serious consideration to alternative tools to implement pollution control policy. I have in mind emission charges or penalties, directly related to the amount of pollutant discharged by the offending source. This approach to the problem of what economists call externalities may be preferable to the

brinksmanship which has been the demonstrable result of the combined effect of statutory deadlines and statutory emission standards as applied to the automobile industry.

I am fully cognizant of the costs which we are asking the consumer to assume in moving to the interim 1975 standards. I believe that, given the available options, it was the best of the available choices. However, I am sufficiently unsettled by this recent decision to want seriously to examine policy alternatives, should our judgment ultimately prove incorrect.

Mr. RANDOLPH. Mr. President, the decisions of the Committee on Public Works necessary to bring this bill to the Senate were among the most difficult we have been called on to make.

When the Clean Air Act of 1970 was adopted, this country embarked on a bold new program intended to halt the increasing pollution of the air we breathe. We recognized then that some substantial adjustments would be required to accommodate the new procedures mandated by the Act.

We knew there would be agitation for changes in this statute. Members of the committee knew that if we compromised the commitment inherent in the Clean Air Act by making unwarranted modifications in its provisions, then the total effort would be weakened and its success impaired.

Therefore, we approached the question of automobile emission standards with a determination to examine all aspects of the issue in detail. Beginning last spring, the committee conducted hearings, participated in a number of meetings on both formal and informal basis, and directed its staff to make the additional inquiries necessary to accumulating the data on which to base a reasoned and workable decision.

The legislation now before the Senate represents the sum total of this effort. It takes into account many diverse factors about which there is often less than universal agreement.

The catalytic converter and its effect on fuel consumption has been a matter of dispute. The necessity for maintaining an ongoing pollution control program, as I indicated earlier, is vital.

There are new and better power sources, perhaps, that can be brought into use for motor vehicles. We hope so. We are concerned also with the health of the American people. That is one aspect we must continually consider in connection with motor vehicle emissions.

Mr. President, I think we will consider carefully—I know that I will—the amendment of the distinguished Senator from Virginia (Mr. William L. Scott), who is a valued member of the committee.

In the 3 years it has been in effect, the Clean Air Act has had a noticeable impact on the quality of the air in this country. The program it initiated, however, was a new one on a scale never before attempted. Under such circumstances, there was need for almost continual congressional review of the act's requirements and the way in which they were implemented.

With respect to automobile emission standards, there were enough questions raised that the committee felt obliged to give this aspect of the air pollution program a searching examination. There were numerous proposals and recommendations that modifications be made. There were those who urged us to refrain from any action that would compromise the cause of cleaner air.

On November 28, the committee—after 2 days of hearings that month and after extensive discussion—approved legislation extending the interim standards for model year 1975 vehicles through 1976. The full implementation of the act in 1977 was left unchanged.

Mr. President, that action, reflected in the bill now before the Senate, is not a retreat. I consider it merely a stretching out of the time for arriving at the statutory standards.

Congress did not require the automobile manufacturers to install catalytic converters on 1975 cars to achieve the interim standards for that year. The choice of technology was made by the companies. There are a number of questions, however, about converter technology that should be answered. The extra year provided in this bill will allow time to improve catalytic converters and to extend research on other types of engines that are both low in emissions and high in fuel economy.

We could not explore the question of pollution control without being actually cognizant of the current energy supply situation. There has been considerable discussion of the effect of pollution control systems on fuel requirements. Controls installed on cars in the past 2 years have increased their gasoline consumption.

The committee considered this problem carefully and concluded that maintaining the present schedule of compliance with the 1975 interim standards would not materially increase fuel demand. In fact, there was testimony at our hearings that use of catalytic converters would result in increased fuel economy. Although there is some dispute on this point, General Motors—our largest car maker—insists that its 1975 cars equipped with converters will increase mileage per gallon by about 13 percent over this year's models.

We could not, therefore, justify retaining the 1974 standards, as had been urged by some people. The technology is available to provide significant improvement in air quality, and it can be done at little or no cost to fuel usage.

Mr. President, this bill does not represent the final judgment of the Committee on Public Works on this issue. At the same time, it does not necessarily mean that we will recommend further changes in automobile emission standards next year.

We are continuing to exercise our oversight responsibilities and, in this context, have commissioned the National Academy of Science to conduct two exhaustive studies. The reports of these inquiries will be made to the Congress next summer and will provide us with updated information on both the health effects of automobile emissions and the monetary costs of meeting the act's requirements.

Next month our Subcommittee on Air and Water Pollution, under the able chairmanship of the Senator from Maine (Mr. Muskie) will conduct hearings on issues relating to the requirements for lowering emissions of oxides of nitrogen. This is one of the most troublesome parts of the automobile pollution effort and one on which there is considerable disagreement. We intend to explore in detail the technology for reducing oxides of nitrogen emissions and the validity of the existing statutory standards for this pollutant. These hearings, scheduled for the week of January 28, also will be concerned with lead phase-down regulations.

Mr. President, automobiles are America's favorite form of transportation. That is why millions of our citizens are concerned with the effects of automobile pollution control legislation. The Congress, there-

fore, must act responsibly to reduce pollution from cars but without unnecessarily impairing the mobility that we are dependent on to sustain our country.

This bill was one of a series of major legislative measures to be developed by the Committee on Public Works in recent months. The versatility of the collective membership of the committee has been shown on frequent occasions. Great concern with the issues of this legislation was demonstrated by each member as we deliberated the content of the bill. Senator Muskie's experience in the pollution field helped to guide our discussions. Senator Baker, the ranking minority member of the committee, and Senator Buckley, the ranking minority member of the Subcommittee on Air and Water Pollution, made valuable contributions. Major involvement by the other committee members enabled us to report this legislation expeditiously. Senators Montoya, Gravel, Bentsen, Burdick, Clark, Biden, Stafford, William L. Scott, McClure, and Domenici all gave concentrated attention to the bill. As chairman of the committee, I am grateful for their dedication and participation.

Mr. WILLIAM L. SCOTT. Mr. President, I call up my amendment, which is at the desk and I ask that it be read.

The PRESIDENT pro tempore. Is this the amendment on which there is a time limitation of 1 hour?

Mr. WILLIAM L. SCOTT. Yes, it is, Mr. President.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following: That (a) section 202 (b) (1) of the Clean Air Act is amended—

(1) by striking out in subparagraph (A) "1975" and inserting in lieu thereof "1978";

(2) by striking out "during or after model year 1976" and all that follows in subparagraph (B) and inserting in lieu thereof "during model year 1976 shall contain standards which limit emissions to a maximum of 3.1 grams per vehicle mile of oxides of nitrogen. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1977 shall contain standards which limit emissions to a maximum of 2.0 grams per vehicle mile of oxides of nitrogen."; and

(3) by adding at the end of such paragraph the following new subparagraph: "(C) Compliance with the regulations prescribed pursuant to this section for model years 1975, 1976, and 1977, shall be measured by certification test procedures prescribed by the Administrator for model year 1975. The regulation for model years 1975, 1976, and 1977 prescribed pursuant to subsection (a) (for carbon monoxide and hydrocarbons) shall impose the same emission standards as are in effect as of December 1, 1973, for model year 1975."

(b) Section 202 (b) (5) of the Clean Air Act is repealed.

Mr. WILLIAM L. SCOTT. Mr. President, let me first express my appreciation to the distinguished chairman of our full committee and to the ranking Republican member of the committee for their kind remarks.

In the legislative process, as I see it, reasonable people can have different opinions. I favor the bill before us but doubt that it goes far enough. My amendment would extend the 1975 interim standards for an additional 2 years. An automobile manufacturer would have until the model year 1978 to reduce carbon monoxide and hydrocarbons by 90 percent from the 1970 standards. It would give him a 2 year extension rather than the 1 year provided in this bill. In my opinion, a 1-year extension is not sufficient time to permit the automobile industry to have a choice of methods for reducing air pollution.

This amendment is identical with a provision the other body added to the National Emergency Energy Act last week. It is similar to a bill I introduced in October with a number of cosponsors. That measure provides for a 2-year extension with an option in the Administrator of the Environmental Protection Agency to extend it for 1 additional year. However, the House language is used in the present amendment because it has already been agreed to in the other body.

I understand that it also has the support of the administration. In fact, I am told that it has the wholehearted support of the administration.

I would read to the Senate a statement that was made December 5 by the Deputy Director of the Federal Energy Office, John C. Sawhill, just his concluding remarks:

I fully recognize that we must balance our energy and environmental objectives. Based upon the presentations and analysis available to me at this time, I conclude that the extension of the 1975 interim standards to model years 1976 and 1977 epitomizes the balance between the objectives of reducing energy consumption and reducing atmospheric pollution. Additional studies should be made of the possibility of freezing the 1973-74 standards.

Mr. President, we all want to reduce air pollution, all of us want a clean environment, but it must be coupled with a realistic view of our present energy situations and the present state of our economy. In my opinion, the automobile industry should have a sufficient leadtime to develop a cleaner and more efficient motor rather than to be compelled to use a dirty motor and to clean up the exhaust by add-on devices.

I believe that is really the crux of the matter—giving the industry time to plan, and not have periodic interpretations in this planning by changes in the law made in the Congress. I feel that this amendment does give time for them to make decisions that must be made.

During hearings last month before our full Committee on Public Works, the spokesmen for the three leading automobile manufacturers were in disagreement as to the wisdom of using a catalytic converter. Under the amendment, there will also be sufficient time to evaluate the report from the National Academy of Sciences and to determine the extent of health damage, if any, of emissions of sulfates and sulfuric acid from catalyst equipped vehicles. At present there appears to be substantial disagreement on that point by the experts. However, to the layman, it appears to be substantial disagreement on that point by the experts. However, to the layman, it appears preferable to strive for a clean motor, burning the fuel as completely as possible for the energy it provides, than to have the pollutant reduced by an add-on device after it has left the engine.

As you know, Mr. President, present law provides that by 1976 there shall also be a 90 percent reduction from the 1971 level of nitrogen oxides emissions. This is discussed in some detail by the knowledgeable Senator from New York (Mr. Buckley) in his supplement to the committee report. I had urged a 2-year extension of this requirement in the committee, plus authorization for the Administrator of the Environmental Protection Agency to extend the period for an additional year, but the House language which is adopted as this amendment provides that during or after the 1977 model year, the automobile emission standards shall be no more than two grams of oxides of nitrogen per vehicle mile. I understand the Environmental Protection Agency has recommended this standard as high enough for health protection in

ambient air and obtainable without adverse problems within the automobile or petroleum industries.

Mr. President, I believe there are three major matters that must be weighed in the various energy measures coming before the Congress. One, of course, is the effect any legislation or action we take has on the environment. Second, what effect will it have on the energy crisis with which we are confronted. And, third, what effect will it have on the economy? This amendment will not do violence to any of the three. It should tend to prevent further erosion in gasoline mileage and, in fact, give the industry time to perfect a more efficient motor. The identical language has been adopted in another bill by the House. It does have administration support. I urge its approval and ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I reserve the remainder of my time, but do want to comment further before the vote on the amendment.

Mr. MUSKIE. Mr. President, I yield myself 5 minutes.

First of all, I think I ought to comment on the administration's alleged position on the amendment of the distinguished Senator from Virginia. He spoke of the administration's wholehearted support for this amendment. He read from a communication presumably from Mr. Simon, who is the new energy administrator.

I think the source of the testimony is significant, Mr. President. There is an inclination, in the name of the energy crisis, to throw overboard values in the environmental field that it has taken us long years to fix as a part of our public policy. Mr. Simon has no responsibilities in that field. His recommendations in the field, I think, therefore, ought to be put in proper perspective.

Unless Mr. Russell Train, Administrator of EPA, does not speak for the administration, it is inaccurate to describe the administration's position as wholehearted support for the pending amendment.

I ask unanimous consent, that there be included in the Record a letter to the editor dated November 27, 1973, by Mr. Russell Train, Administrator of EPA.

There being no objection, the letter was ordered to be printed in the Record, as follows:

CLEAN AIR BACKFIRE

SIR: I read with interest your editorial entitled, "Clean Air Backfire." After reviewing the information presented, I have concluded that many of the assumptions underlying your statements concerning catalysts are in error. This is especially true in regard to fuel penalties associated with catalysts.

The use of a catalytic control device to meet emission-control standards will definitely save gasoline as compared to the fuel penalties associated with current emission-control systems. For example, it is conservatively estimated that use of catalysts on the majority of the 1975-through-1977-model vehicles to meet the federal emission-control standards will save 151,000 barrels of gasoline per day. This figure includes the penalties associated with the use of lead-free gasoline. In addition, it goes without saying that the use of the catalyst provides for meeting more stringent emission standards and substantially reducing emissions beyond the levels emitted from 1973 and 1974 automobiles.

EFFECTS OF DELAY

If we postpone the implementation of the 1976 nationwide emission standards (95 percent in exhaust emissions reduction), Detroit may attempt to achieve

interim 1975 standards (83 percent exhaust emissions reduction) without using the catalyst. Automobile manufacturers have always been more concerned with the sticker price of their vehicles, choosing to ignore improvements which would lower the operating cost. Since the catalyst cost is added to the purchase price, Detroit might choose to achieve the standards without the catalyst, which would reduce fuel economy to 1973 levels. If we adopt a standard which requires the use of catalysts we will substantially reduce emissions and enhance the likelihood of better fuel economy.

Backing off to the interim 1975 California standard (90 percent exhaust emissions reduction) is an option and would require the use of catalysts. While there is some evidence that adopting the California standard nationwide would make possible slight fuel savings, 1-3 percent, when compared with imposing the 1976 statutory requirement (95 percent exhaust emissions reduction) we have good evidence that Detroit could achieve fuel savings in this range using technology which is available now and still achieve the 1976 statutory requirement. We believe that before sacrificing our hard fought air quality goal we should explore alternative ways of improving fuel economy, particularly when you consider that fuel economy will be better in 1977 than in 1973 and our air will be substantially cleaner.

D.C. TRAVEL CUT

To illustrate this point, the Clean Air Act requires that we achieve the primary health standards by 1977. If the 1975 interim standards (83 percent reduction) were implemented in place of the statutory standards (95 percent reduction) on 1976 and 1977 automobiles, Washington, D.C., would have to achieve an additional 11 percent reduction in vehicle miles traveled to meet the health standards by 1977. Since a 13 percent reduction in vehicle miles is already required for the area, accomplishment of the additional reductions is unlikely by 1977. Consequently, the people of the National Capital could be exposed to hazardous levels of pollution for an additional two to three years.

On your point regarding the use of the Honda stratified charge engine, current testing which is being conducted by General Motors shows that the stratified charge system could bring us back to pre-controlled fuel economy levels. This is essentially the level which General Motors believes they can achieve using the catalyst. If the emissions timetable is pushed back, the fuel savings from the catalyst will be lost.

POLLUTION FROM CATALYSTS

Your editorial also mentioned the problem of sulfuric acid mist or sulfate emissions from catalysts and referred to EPA scientists urging a delay in catalyst usage due to this potential problem. EPA has recently completed a preliminary evaluation of this possibility and determined that if high sulfate emissions accompany catalyst usage, a resulting air-quality problem is unlikely to develop for several years. Accordingly, time is available to further evaluate the potential for sulfate emissions from catalysts and to determine the extent to which this will be a problem. If a sulfate emission problem does exist, EPA has several courses of action available to solve the problem and still permit the use of catalysts. These include reducing the sulfur-content levels of lead-free gasoline and modifying the catalytic process to prevent excessive sulfate formation.

In view of the significant reduction in emissions provided by the catalysts, the energy savings associated with its use and our ability to prevent any sulfur-emissions problem which may develop from endangering the public health, EPA believes the emissions standards should be implemented as scheduled.

RUSSELL E. TRAIN,

Administrator, Environmental Protection Agency.

Mr. MUSKIE. Mr. President, a reading of that letter makes clear to anyone that Mr. Train is opposed not only to the amendment offered by the Senator from Virginia but also to the pending bill which has been reported by the committee. Let me read his concluding paragraph. He says:

In view of the significant reduction in emissions provided by the catalysts, the energy savings associated with its use and our ability to prevent any sulfur-

emissions problem which may develop from endangering the public health, EPA believes the emissions standards should be implemented as scheduled.

By that Mr. Train means the 1975 interim standards, the 1976 standards, the 1977 standards, without change—not that Mr. Train is not sensitive to new information or to new understanding that we may develop in the continuing search for data and judgment on these important questions. No; he is simply reflecting the voice of current evaluation of all the questions that have been raised.

The fact is that the 1975 standards which the committee bill would extend for another year represent a fuel economy for all operators of motor vehicles in this country.

Moreover, the 2 years that the committee bill would now give to the industry gives the industry ample time to meet those standards and to move on to the standards which are now fixed in the law for the years beyond 1976.

For example, Senator Scott's amendment would freeze in the law until 1978 the 1975 interim standard on hydrocarbons, which is 1.5 grams per mile.

It would freeze into law the interim standard on carbon monoxide which is 15. And it would freeze into law until 1978 the NO_x standard of 3.1.

The committee bill, on the other hand, would still retain as the target for 1977 the 0.41 standard for hydrocarbons—and the industry has indicated no great doubt that it can achieve that standard. The standard is 3.4 for carbon monoxide, and again industry has demonstrated its ability to meet that standard.

The NO_x standard is the one standard that causes the industry to raise doubts about its own ability to develop adequate technology.

In the committee bill we have frozen the NO_x standard at 3.1 for 1975 and 1976. We think that it would be premature to do more than that at this point.

Mr. President, let me emphasize that when we consider the standards of the Clean Air Act of 1970, what we are considering is health-related standards. These were not arbitrary standards picked out of the air to create technological problems for the industry or to create problems for those who operate the vehicles manufactured by the automobile industry. Rather, we sought to identify the performances at which public health would be damaged by given levels of air pollutants transmitted into the atmosphere from motor vehicles.

EPA has maintained those standards since the 1970 act was enacted into law.

The Senate has authorized a study by the National Academy of Sciences and has appropriated half a million dollars for that purpose. It also had testimony as to the validity of the standard.

The National Academy study was designed to be performed in two stages. First there was to be an interim study which was made available to us this fall. Second, there was to be a more comprehensive study, which we expect to get next summer.

Now, with respect to the interim study, which the National Academy sent to us this fall, I read as follows:

Present knowledge of health effects appears to afford no compelling basis for suggestions to either raise or lower the currently mandated primary air quality standards at this time.

Mr. President, we have appropriated half a million dollars to test that question. That study is underway, and the industry does not need a study at this point with respect to developing its technology beyond 1976.

There is absolutely no health justification and no technological justification for taking the step which the Senator's amendment would cause us to take today.

The committee has already committed itself to conducting hearings early next year. We expect that they will be conducted in the latter part of January on this whole issue.

EPA submitted its own conclusions on the NO_x question the day before the committee reported the pending bill out of committee. There have been no hearings on that EPA report. There is evidence from the Japanese that the NO_x problem may be even more serious from a health standpoint than reflected by our own law. The Japanese requirements are even more stringent than ours.

In addition, a week or two ago in California, the subcommittee held hearings at Riverside on the latest available evidence of the damage to the environment from NO_x. There was recent evidence of widespread damage to the lettuce crops of California attributable to previously unidentified effects of NO_x pollutant.

There is no reason to take a step of this kind unless one just simply panics in the heat of the energy crisis and throws overboard values that have been established after long years of study and careful deliberation to establish a proper balance between doing what is possible and what the health of the country requires.

The Senator's amendment would extend for 1 further year the HC and the carbon monoxide standards which the committee bill would extend for 1 year only. The committee action is all the industry needs.

Mr. President, as a matter of fact, I think one of the companies indicated a willingness to accept a freeze at the level of the California interim standards. And the California interim standard is not the 1.5 covered by the committee amendment or the Senator's amendment, but a 0.9 for hydrocarbons. It is not 15 percent for the carbon monoxides, as provided in the Senator's amendment, but is 9.0. And with respect to NO_x, it is 2.0 and not 3.1, as covered by the Senator's amendment.

So, on these counts, Mr. President, the Senator from Virginia may well be able to make the argument he is making today when we do have more evidence. However, we do not have that evidence now. It could be premature to take this step at this time. And its effect would be to freeze the NO_x standards at 2.0, not until 1978, but permanently thereafter.

We think the effect may well have a predictable impact on public health which we would regret. There is no reason to take the step now, in terms of the energy crisis and in terms of what we now know are the effects of the pollutants on our environment.

Mr. BUCKLEY. Mr. President, I really think I should be asking that my time be allocated 45 percent and 55 percent between the proponents of the amendment and the distinguished chairman of the committee. I say this because, while I think the issues that are involved are extremely difficult, we have received a volume of compelling evidence on this matter.

I have enormous sympathy with the objectives of the Senator from Virginia. And I know that he, too, has sought to balance the compelling objectives in the most prudent way, taking into consideration not only health requirements, but also the other imperatives which we now face.

In point of fact, I voted with him for an amendment that would have frozen the NO_x standards to 2.0 for a 2-year period. And this, of course, is an important part of the amendment he has offered.

I would believe, as he does believe, that this would have created a degree of certainty that would have been helpful to the industry in coming up with the most effective design, even though we now have assurances that the committee will consider this particular recommendation shortly after the first of the year.

I will not be able to support the Senator from Virginia for two reasons. First, I am willing to abide by the judgment of the committee on the nitrous oxide standard for the reason that we will be, in fact, having hearings upon the recommendations of EPA. I do believe, knowing this committee and subcommittee as I do, that we will see fast action. We will also be informed by some of the information which the National Academy of Sciences will be marshaling.

So, I believe that what we face here is a deferral rather than a long-time, indefinite postponement of consideration of the advisability of adopting a 2.0 NO_x standard.

With respect to the proposal that we extend the 1975 interim standard for 2 years, this may well be something that becomes desirable, but I see no necessity to do so at this time. We are giving the automobile industry here and abroad a comfortable target within which the engineers can work in seeking the most efficient and effective way of meeting those standards, keeping in mind the next stage.

I believe, too, that the public move toward smaller cars, toward cars that are inherently more efficient in their consumption of energy, will have the effect of rendering unnecessary the experimentation with alternatives. I think this is something we will see develop within the next 2 years.

Finally, the experience of this committee has been that breakthroughs have occurred that 6 months earlier had not been predicted by anyone in the industry. We saw this in terms of the utilization and distribution of the catalyst. General Motors, a year or so ago, or even more recently, was testifying that this was not the answer. Now they are wholeheartedly in favor.

I, therefore, do not feel that there is a need at this time to create so large a target, and thereby reduce some of the incentive to the industry to develop more effective ways and alternative ways of achieving our health goals.

For all of those reasons, Mr. President, and with a great deal of reluctance, I shall vote against the amendment offered by the Senator from Virginia, but I do pledge to him that I will continue to work with him in the examination of the NO_x standard and a determination as to whether we should enact new legislation to that effect, and I shall continue to keep as open a mind as I can toward the evidence that will be brought to the floor as we move into actual experience with 1975 model cars.

Mr. RANDOLPH. In connection with the comment on the situation that we call the NO_x problem, I want to reinforce what the Senator has said, but from the standpoint of the committee itself. We will have hearings very early in the coming session on this subject in the subcommittee. The results of those hearings will, of course, be brought to the full committee, and it will be the desire and the determination of the chairman, of course, working with the members, to bring this matter from the full committee to the Senate itself.

I think that is an assurance which the Senator has given as an individual member, and which I want to reinforce as the chairman of the committee.

I think the able Senator from Virginia must know, and I am sure he does know, that this is a pledge which will be kept from the standpoint of prompt attention to the problem to which his amendment is directed.

Mr. DOMENICI. Mr. President, let me say that I, too, support wholeheartedly the remarks of the Senator from New York regarding this matter, and I regret that I cannot support the amendment proposed by the distinguished Senator from Virginia.

I, however, state to him that indeed he was among the early proponents of the need for some change in this area, and I compliment him in that regard.

However, let me address myself to the reasons why we are here today. If we are here talking about the energy crisis, I submit that the committee recommendation is far better than that proposed by the distinguished Senator from Virginia. If we are here on health matters, it appears to me that we should wait for the report of the National Academy.

Let me discuss very briefly my views as to why, in the interest of the energy crisis, we should proceed as we have recommended.

First of all, there is absolutely no evidence that we could not do better in terms of saving energy by moving away from the 1975 interim standards in the year 1977. We have said we will stay there for 1975 and 1976. There is ample evidence before the committee that during that 2 years, and indeed to this point in our history, we might have achieved greater energy conservation, with yet cleaner exhausts, in the year 1977 by using a standard different than the 1975 interim.

So it would appear to me that the only possible reason to freeze for 3 years instead of 2 on HC and CO would be that the alternative approaches to new engines and new methods to clean up the exhaust have dictated such a freeze, and in that regard, that is not true either. There was no evidence before the committee other than the problem with NO_x , which I shall address myself to shortly, that we must move ahead that quickly in order to obtain alternate engine sources or alternate ways to clean the exhausts. The only thing they have been saying to us, and saying with some degree of consistency, is that if you clean up the HC and CO, you have a problem with NO_x .

I think we all agree that we will have to have some changes in the NO_x standards, not only so that the health of our citizens is not in jeopardy, but so as to maximize the issue of the inducement to clean up the environment.

For that reason, I propose that we freeze the NO_x for 1977 at 2, but only for 1 additional year, and not in accordance with the recom-

mendations of the Senator from Virginia that that be an indefinite or permanent standard.

The reason I have opposed it is that there is ample evidence that it is questionable from the health point of view, and it would open the door for more research and development by the companies of America, but I am convinced that before the committee made the commitment found in the report—and it is twofold, that EPA will report to us, a detailed examination and report will be forthcoming on January 15 as to the Japanese findings and the findings of EPA itself with reference to NO_x, and the second part of the commitment is that we will then begin public hearings in that regard—I think it is implicit in holding public hearings, that if the committee finds there is a need at that point in time to freeze at 2, we will, indeed, make such a recommendation.

I remember Senator Muskie's saying:

We will have the hearings, and let the hearings speak for themselves.

That is how I view it, If the evidence indicates the 1977 NO_x standards must be changed and frozen at 2, we will come to the floor with them.

So I do not see where freezing them now will add anything to the ability of American industry to comply with the 1975 interims for 2 years, as far as cleaning up the HC and the CO is concerned. If we say we want to give them 3 years instead of 2, so that they can experiment with alternative engines and technology, it does not really bear much on that issue. Without the NO_x change, it seems to me that to stick with the 1975's clear through the 1977's, so far as HC and CO are concerned, will accomplish little or nothing. February or March is soon enough to make the adjustment on NO_x. That is what the evidence says. I think we will make the adjustments in a timely fashion.

I conclude with two remarks about the administration. First, I honestly do not think that Mr. Sawhill, at this point in time, knows any more about this problem, as complex as it is, than the members of the committee or the committee staff. I compliment him for wanting to arrive at a decision, but I just do not believe his approach would save energy for the American people.

As to Mr. Train, no one really has said he is recommending what the distinguished Senator from Virginia (Mr. William L. Scott) is recommending in his amendment. I know that would be very inconsistent with what he had been recommending heretofore. I have tried to find out and I am convinced that he is not recommending the 1975 interims for 3 years or pressing for an immediate change in the NO_x standard for 1977.

For those reasons I cannot support the amendment of the Senator from Virginia (Mr. William L. Scott), although in many respects it is very close to what we have been discussing and what we will hope to accomplish today.

I thank the distinguished Senator from Maine.

MR. GRIFFIN. Mr. President, at the outset, let me say that if the amendment of the distinguished Senator from Virginia should not prevail, of course, I shall favor and vote for the bill that has been

reported by the committee. A 1-year extension as provided in the bill will at least be an improvement over the situation confronting us now.

Nevertheless, I believe there is a great merit in the proposal advanced by the distinguished Senator from Virginia, and I rise to wholeheartedly support it.

As I understand it, his amendment is similar to an amendment adopted in the other body last week. I also call attention to the fact that the administration, speaking through Mr. Sawhill, deputy to Mr. Simon, has registered its support before a House committee for a 3-year freeze in the auto emission standards.

When Congress enacted the Clean Air Act in 1970, there was little reason, if any, to believe that we were not required to provide, as we are doing today, relief from the auto emission standards that were written then into the law—standards enacted even though the technology to achieve them did not exist and could not be reasonably anticipated.

Not surprisingly, the time has now arrived when we must change and push ahead the date on which compliance with those standards would be required.

The bill now before the Senate would suspend the 1976 statutory standards for 1 year pending completion of a study by the National Academy of Sciences with regard to health effects. If the standards are extended for only 1 year, it means that Congress will be forced to act again at the last minute next year if and when the National Academy of Sciences determines as a result of its study that the standards are still unnecessarily high. The study will not be completed until late next summer, probably in August, we will be required, unless the Scott amendment is adopted, to try then to get action again by Congress on another extension. That is not a happy prospect, considering the fact that next year is an election year when other considerations have a way of becoming confused with the merits of legislation.

Mr. President, the automobile industry and millions of workers who depend upon that industry for their jobs are being held hostage in a sense in this situation. By extending the timetable for only a year, the industry will have very little time to engage in research looking toward development of an alternative to the catalyst as a means of meeting clean air standards. Few of us, I regret to say, really appreciate the difficulties of the leadtime involved in the building of an automobile. I am told that 18 months is a minimum leadtime even when no substantial engineering changes are contemplated.

But with substantial engineering changes are to be made in an automobile, then the necessary leadtime may be as long as 3 years.

As I understand it, enactment of the committee bill—rather than the Scott amendment—will almost lock the automobile industry into adoption of the catalyst as the only way to meet emission standards. Unfortunately, Congress will be taking that action without adequate consideration of the cost or the consequences for the Nation as a whole.

I know of course, that one of the major automobile companies—has invested heavily in development of catalysts. And that action has been taken in a good faith effort to meet the timetable set by Congress.

We should also keep in mind that use of catalysts will add at least \$150 to the purchase price of each new automobile, addition to whatever maintenance is involved. Furthermore, by mandating the use of catalysts, we would also be mandating the purchase of large amounts

of scarce chrome and platinum—ironically at a time when an effort is also underway to make it impossible by legislation to purchase chrome from one of the leading suppliers in the world. This approach—requiring the use of catalysts—will require conversion of refineries so they can produce nonleaded gasoline. As I understand it, at a time when we should be investing in the construction of new refineries—we will instead be required to invest \$4 billion to convert existing refineries to the production of nonleaded gasoline.

These are important facts to take into account at a time when our most pressing problem is the energy shortage which, in turn, results partly from a shortage of refinery capacity.

At the same time, in order to produce nonleaded gas, it will involve an increase in crude oil by some 4 to 5 percent to produce the same quantity of gasoline.

Mr. MUSKIE. Exxon's testimony in our hearings is directly to the point that the 1975-76 standards would involve no crude oil penalty. I understand, of course that the automobile companies, through PPG, have run full-page advertisements arguing that those standards would involve a crude oil penalty of a million barrels of crude oil a day. That is contrary to the evidence. The assumption is that they are talking about 94 to 98 octane gasoline. What we are talking about in 1975-76 does not involve that kind of high-octane gasoline.

The evidence is that no crude oil penalty is involved for the standards that are represented by the committee bill, that will be represented by the 1975 interim standards—no crude oil penalty at all—and there is no evidence in the hearings to the contrary.

Mr. GRIFFIN. I hope that the Senator from Maine is correct.

Mr. MUSKIE. May I say to the Senator that I can only rely on testimony, not on newspaper advertisements; and this line of advertisements we have been getting is directed at creating an emotional climate against these standards.

So, when I get evidence from testimony in my hearings, I think it is appropriate for me to call the Senate's attention to it on the floor of the Senate.

Mr. GRIFFIN. I thank the distinguished chairman for his contribution.

A member of my staff has called my attention to Business Week for December 15. In an article on page 54, a question is addressed to Russell Train, as follows:

But won't the need for unleaded fuel in catalyst-equipped cars require extra crude oil in the refining process?

Mr. Train's response, as printed in that article, is as follows:

There is a crude oil penalty. Our computations show a penalty of 50,000 bbl. per day in the first year and perhaps as low as 25,000 bbl. While there is some argument over the figures, there appears to be a net energy benefit in the 1975 standards. Beyond 1975, it's more uncertain.

Mr. GRIFFIN. Mr. President, according to Mr. Train, then, there is a penalty so far as the use of crude oil is concerned. I anticipate, of course, that the Senator from Maine will direct my attention to the last sentence of his statement, which goes, not to the crude oil penalty, but to the overall question involved.

There is, of course, a dispute as to whether or not the use of the catalyst device will reduce fuel consumption by 10 percent, as some spokesmen have claimed. Other industry spokesmen have put the

figure at 5 percent, while still others say there would be no fuel economy at all.

Mr. President, at a time when the Nation is very concerned about the shortage of energy, at a time when there is no clear answer as to what auto emission standards should be, and at a time when the National Academy of Sciences still is studying the whole matter, I believe adoption of the Scott amendment makes a great deal of sense. Accordingly I urge Senators to support the pending amendment.

I thank the Senator from Virginia for yielding.

Mr. WILLIAM L. SCOTT. Mr. President, the senior Senator from Maine read a letter from the Administrator of the Environmental Protection Agency. I, too, saw the letter to the editor, as I recall, in the Washington Star, but it was some weeks ago. Our outlook on this whole question is changing, in view of the energy crunch we are in.

I say to the distinguished Senator and to the other Members of this body that on the way over here, after the Senate took up consideration of this bill, a member of the White House staff indicated to me that this amendment has the full support of the administration.

Mr. MUSKIE. Is the Senator telling us that Mr. Train and the Environmental Protection Agency now support this position?

Mr. WILLIAM L. SCOTT. No. I am saying that the letter that the distinguished Senator read is a November letter. This is December. I do not know what is in the mind of the Administrator of the Environmental Protection Agency at this time. I think the Senator would admit that over the recent days and weeks, our outlook, or the outlook of the American people generally, has changed.

Mr. MUSKIE. I am asking whether or not, to the Senator's knowledge, EPA has changed its position. I am not talking about the outlook of citizens generally. I am talking about the outlook of an agency that has concern not only with the energy crisis, but also with the health values of the Clean Air Act.

The relationship between EPA and this committee is such that any such change in its position would be no secret on the floor of the Senate today. So that if EPA now endorses Mr. Simon's position, that ought to be a matter of record and not speculation.

Mr. WILLIAM L. SCOTT. I am saying to the Senator that the letter he read is a November letter.

Mr. MUSKIE. And that still represents the view of EPA so far as we know.

Mr. WILLIAM L. SCOTT. I have no knowledge of whether it represents it or not, but I do know that in the White House we have the Chief Executive of this country; and one of his representatives in congressional liaison told me on the way over here, after the Senate took up consideration of this bill, that this amendment does have the full support of the administration.

Mr. MUSKIE. May I say to the Senator that I happened to hear Mr. Train on the evening news, when he was questioned on whether or not the position which the Senator has stated had been cleared with him and with EPA. He said it had not been, and he was not aware of any attempt on the part of Mr. Sawhill or Mr. Simon to clear this position with him.

So that, so far as I am concerned, whatever the rest of the administration may feel about this proposition, it does not represent the posi-

tion of Mr. Train; but, rather, his position of November 27 is still current.

MR. WILLIAM L. SCOTT. I say to the distinguished Senator that I have not communicated with Mr. Train. I have no knowledge other than the letter the Senator read is an old letter. I do not doubt the statement of the Senator if he has more advanced information.

MR. MUSKIE. I do not consider a letter date November 27 an old letter.

MR. WILLIAM L. SCOTT. If the Senator would permit me to continue, I would say that Mr. Train is only one of several officials we have within the Federal Government who are concerned about the matter under consideration today. When a representative of the White House tells me that this has full administration support, I assume that it does have full administration support. Now, whether that coincides with what Mr. Train's feeling is, I do not know.

MR. MUSKIE. Is the Senator concluding that it has Mr. Train's support?

MR. WILLIAM L. SCOTT. I am saying that the letter that the distinguished Senator read is an old letter.

MR. MUSKIE. It is no older than the testimony upon which the Senator bases his argument. That testimony was presented at about the same time as this letter was published on November 27. If one is old, the other is ancient, too.

MR. WILLIAM L. SCOTT. Mr. President, I would ask that I be permitted to continue with my remarks.

I reiterate that after 12 o'clock today, I was told that this amendment does have the full support of the administration. As I see it, the greatest problem we face is how to spur Detroit into new engine technologies and away from costly add-on devices, like the catalytic muffler.

Frankly, I have come away from sessions of our Committee on Public Works when we have been considering emissions control with the belief that we must do all we can to foster technological innovations in pollution control. My amendment, I believe, would foster that innovation.

Detroit has testified—and I believe them—that they need a period of stability in order to unleash their scientists in an all out drive toward a better technology. When the standard keeps changing every year or 2, the auto companies simply do not have the time to develop something innovative.

If we do not pause, who will lose? Not Detroit—they will continue to sell cars. It is the American people who will lose. They will lose, because their cars will cost more. The economy will lose, because it will have less zip. And we really do not know what kind of dangerous pollutants we may produce if we require complete reliance on the catalytic muffler.

I am willing to accept use of catalysts on some models for 3 model years. But I want—and I am sure the American people want—something better by the latter part of the 1970s. The American people want new, low-polluting engines, possibly like the stratified charge engine.

To encourage this innovative flexibility among auto scientists, we must also give them a reasonable and definitive target for nitrogen oxide emissions. I am convinced that my proposal of 2 grams per mil of NO_x is a reasonable target. That level is the one that was

recommended by the EPA on November 27. And it is the level from which the industry can pursue the broadest range of technological options. A Ford Motor Co. executive told us in testimony:

If by the end of the year or thereabouts Congress could see it appropriate to establish a NO_x level of about 2 grams, then we can pursue an alternate engine program.

Mr. President, if we do not give them that option, the American people will be the losers.

Nor do I think we have the luxury to say "wait till next year." Detroit will begin running tests on its 1977 model cars in less than 2 years. Detroit will have to make its tool orders before that. So in not much over a year from now, Detroit will begin to commit itself to its 1977 model cars. If we really intend to give Detroit a "plateau for progress," let us provide a meaningful period of time within which the auto companies can work in innovative solutions.

I am interested in clean, healthy air. But I am also interested in our economy and the maintenance of our standard of living. I am interested in jobs: more jobs and better jobs.

For that reason, I want clean cars, but I want ones that are reasonably priced and efficient. I do not want Rube Goldberg contraptions. I want Detroit to go back to the drawing boards and develop an engine that is efficient, low on pollutants, and economical to buy and operate. I believe they can do it. But they can only do it if they obtain stability in the target at which they are shooting. If they face uncertainty, they will take the surest, not the most innovative, path. Frankly, I want to spur innovation. I want Detroit to come up with something better than the catalyst. My amendment, I am convinced, would produce that result. Mr. President, I urge the adoption of the Amendment.

Mr. President, I reserve the remainder of my time.

THE PRESIDING OFFICER (Mr. Johnston). The Senator from Maine has 2 minutes remaining. The Chair recognizes the Senator from Maine.

Mr. MUSKIE. Mr. President, in the 2 minutes I have remaining I would like to read the testimony of Mr. Train on December 3, which was given on the House side. I ask for the attention of my good friend from Virginia. Mr. Train said:

No decision on model year 1976 need be made until late next spring since certification will not begin until next fall.

That statement is in opposition to the committee bill.

He said further at the end of that testimony on December 3:

Accordingly, I strongly recommend that no changes be made in the automotive emission standards at this time.

Mr. President, I wish to make these points in the time remaining. Since the 1970 act was written into law there has been no serious challenge of any of the health standards on which those requirements were based. The automobile industry has not seriously challenged it and every finding that EPA made has justified those health standards.

Second, If and when we change these requirements for automobiles the effect will be to impose burdens on mayors and city councils that will then have to find other ways to reduce emissions by controlling movements of automobiles in cities.

For example, in Washington if the statute were left untouched, achieving air standards in Washington would require a 13 percent reduction in vehicle miles travelled, and at the 1974 level there would be required a 32-percent reduction in vehicle miles traveled to achieve the same standards.

Mr. WILLIAM L. SCOTT. Mr. President, I wish to use the minute remaining to say that I feel that the automobile industry does need sufficient time to plan and develop a clean, economical engine and have a proper balance between the reduction of pollution and at the same time developing an efficient motor.

I urge the adoption of my amendment and yield back the remainder of my time.

Mr. MUSKIE. Mr. President, the automobile industry did not move until this legislation was adopted in 1970. The technological achievement it has developed has been under the prod of that legislation.

What the Senator from Virginia would now do would be to pull off the pressure and let the industry move at its own pace. History tells us that is not good enough for the health of the people of this country.

I urge the amendment be rejected.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Iowa (Mr. Hughes), the Senator from Louisiana (Mr. Long), the Senator from New Mexico (Mr. Montoya), and the Senator from Rhode Island (Mr. Pastore) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. Long) and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Utah (Mr. Bennett), and the Senator from New York (Mr. Javits) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

If present and voting (Mr. Javits) would vote "nay."

The result was announced—yeas 19, nays 67, as follows:

[No. 587 Leg.]

YEAS—19

Bartlett
Brock
Byrd, Harry F., Jr.
Curtis
Eastland
Fannin
Griffin

Hansen
Helms
Hruska
Johnston
McClellan
Saxbe
Scott, William L.

Stennis
Stevens
Taft
Thurmond
Tower

NAYS—67

Abourezk	Fulbright	Muskie
Aiken	Goldwater	Nelson
Allen	Gurney	Nunn
Baker	Hart	Packwood
Bayh	Hartke	Pearson
Beall	Haskell	Pell
Bible	Hatfield	Percy
Biden	Hathaway	Proxmire
Brooke	Huddleston	Randolph
Buckley	Humphrey	Ribicoff
Burdick	Inouye	Roth
Byrd, Robert C.	Jackson	Schweiker
Cannon	Kennedy	Scott, Hugh
Case	Magnuson	Sparkman
Chiles	Mansfield	Stafford
Clark	Mathias	Stevenson
Cook	McClure	Symington
Dole	McGee	Tunney
Domenici	McGovern	Weicker
Dominick	McIntyre	Williams
Eagleton	Metcalf	Young
Ervin	Mondale	
Fong	Moss	

NOT VOTING—14

Bellmon	Cranston	Long
Bennett	Gravel	Montoya
Bentsen	Hollings	Pastore
Church	Hughes	Talmadge
Cotton	Javits	

So Mr. William L. Scott's amendment was rejected.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOSS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CLARK. Mr. President, the Clean Air Act is a tribute to the foresight and thoughtfulness of the U.S. Senate and the Senate Public Works Committee.

Recently, that act has come under fire. The energy crisis has given impetus to the growing opposition to some of its provisions.

Today we are considering extension of the 1975 interim standards for automobile emissions. **[Sec. 202 CAA.]** The Public Works Committee has held numerous hearings on automobile emissions, and varying proposals for changes or delays in the standard have been discussed.

I do not want to see any changes in the current schedule for implementing the standards. The testimony given to the committee did not convince me that there is real justification for delaying the standards, but I am convinced that there is very strong feeling in the Congress for delaying the standards—and to keep that delay at the very minimum I support the amendment to the Clean Air Act that is before the Senate today.

One of the justifications for the current proposal is that the automobile companies need more time to perfect the cleanup equipment they will be putting on the 1975 cars. Another reason is that it will give them more time to move into the alternative technologies which

will probably be preferable to the catalytic converters being put on many of the next year's cars.

Another rationale for changing the current schedule for implementing the standards is that the emissions controls deserve the blame for the poor gasoline mileage our cars are getting. It is true that the present controls have lessened fuel efficiency, but so have automatic transmissions and air-conditioners. Emission controls cut down on air pollution, and obviously are more in the public interest than either automatic transmissions or air-conditioners. While it is vital that we take steps to conserve energy, it is also vital that we remember that other goals are important—and that clean air is not in unlimited supply any more than energy is.

Actually, the catalytic converters which will be required in many cars if the present proposal goes into effect will improve gasoline mileage—by at least 5 to 6 percent. So, moving ahead on clean-air goals will improve, not decrease fuel efficiency.

And we must continue to move ahead with clean-air goals. Dirty air is already a health problem in some areas of this country, but it need not be a health hazard for every area. The United States has the technology to cut automobile emissions. It should be used, and, if the only way we can be assured of cleaning up the air is through stringent standards required on a strict schedule, then it is vital that the standards and the schedule be maintained.

MR. MUSKIE. Mr. President, I ask for the yeas and nays on final passage.

THE PRESIDING OFFICER. Is there a sufficient second [putting the question]. There is a sufficient second.

[The yeas and nays were ordered.]

THE PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

[The bill was ordered to be engrossed for a third reading and was read the third time.]

THE PRESIDING OFFICER. Do Senators yield back their time?

MR. MUSKIE. Mr. President, I yield back my time.

MR. BUCKLEY. Mr. President, I yield back the remainder of my time.

THE PRESIDING OFFICER. All time has been yielded back. The bill having been read the third time, the question is, shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

[The second assistant legislative clerk called the roll.]

MR. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Iowa (Mr. Hughes), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. Long) and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore), and the Senator from Georgia (Mr. Talmadge) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Utah (Mr. Bennett) and the Senator from New York (Mr. Javits) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

If present and voting, the Senator from New York (Mr. Javits) would vote "yea."

The result was announced—yeas 85, nays 0, as follows:

[No. 588 Leg.]

YEAS—85

Abourezk	Fulbright	Muskie
Aiken	Goldwater	Nelson
Allen	Griffin	Nunn
Baker	Gurney	Packwood
Bartlett	Hansen	Pearson
Bayh	Hart	Pell
Beall	Hartke	Percy
Bible	Haskell	Proxmire
Biden	Hatfield	Randolph
Brock	Hathaway	Ribicoff
Brooke	Helms	Roth
Buckley	Hruska	Saxbe
Burdick	Huddleston	Schweiker
Byrd, Harry F., Jr.	Humphrey	Scott, Hugh
Byrd, Robert C.	Inouye	Scott, William L.
Cannon	Jackson	Stafford
Case	Johnston	Stennis
Chiles	Kennedy	Stevens
Clark	Magnuson	Stevenson
Cook	Mansfield	Symington
Curtis	Mathias	Taft
Dole	McClellan	Thurmond
Domenici	McClure	Tower
Dominick	McGee	Tunney
Eagleon	McGovern	Weicker
Eastland	McIntyre	Williams
Ervin	Metcalf	Young
Fannin	Mondale	
Fong	Moss	

NAYS—0

NOT VOTING—15

Bellmon	Cranston	Long
Bennett	Gravel	Montoya
Bentsen	Hollings	Pastore
Church	Hughes	Sparkman
Cotton	Javits	Talmadge

So the bill (S. 2772) was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 202 of the Clean Air Act, as amended (84 Stat. 1690), is amended to add the following new paragraph:

"(6) Notwithstanding the requirements of paragraph (1) of this subsection or the authority granted under paragraph (5) (B) of this subsection, the stand-

ards and test procedures applicable to emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen from light duty vehicles and engines manufactured during model year 1976 shall be the standards and test procedures prescribed by the Administrator for light duty vehicles and engines manufactured during model year 1975 pursuant to paragraph (5) (A) of this subsection and section 209 of this Act in his action of April 11, 1973."

THE AUTOMOBILE EMISSION PROBLEM

Mr. TUNNEY. Mr. President, I have never been satisfied that the catalyst is the ultimate answer to our automobile emission problem; and the recent controversy that has surrounded this technology has increased my doubts about the safety of this device.

I have long advocated an immediate, intensive research and development program to develop an alternative to the internal combustion engine. It was to this end that I introduced the Automotive Research and Development Act which passed the Senate last week. This program authorizes grants of up to \$140 million and Federal loan guarantees of up to \$200 million to develop within 4 years an alternative engine that is clean, quiet, economical, energy-efficient, and safe. This is the only real hope for an adequate solution to our clean air and energy problems.

But, in the next 2 years, the catalyst is the only means Detroit has provided us with to clean up our air. There is no adequate alternative and it is for that reason I am voting for S. 2772 today.

However, I am deeply concerned that California, which will utilize the catalyst more extensively than any other area of the country, is not being adequately protected from possible adverse health effects.

The potential dangers of sulfate and noble metal emissions have been recognized. They must be fully determined without further delay; and every possible precaution must be taken to safeguard the public health. I urge the Congress to join me in demanding that EPA take strong action. I have received evidence that the Agency and other departments of the administration have been dragging their feet in acting to insure the adequate performance of emission control devices and the protection of the public health.

I have written to EPA Administrator, Russell Train, to ask what specific steps are being taken to institute protective measures and I ask unanimous consent that the text of my letter, together with the EPA internal memorandum which leads me to believe there have been unnecessary delays, to be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. SENATE,
Washington, D.C., December 14, 1973.

HON. RUSSELL E. TRAIN,
Administrator, Environmental Protection Agency,
Washington, D.C.

DEAR MR. TRAIN: The enclosed E.P.A. Internal memorandum has increased my concern about the danger of installing catalysts on our automobiles without first fully determining the effects of emissions of acid aerosols, suspended sulfates and noble metals. Earlier this year, Dr. Stanley Greenfield, E.P.A.'s Assistant Administrator for Research and Development, warned that their use might cause cancer and aggravate respiratory diseases. Then, in November, in testimony before the Senate Public Works Committee, you stated that "our scientists have concluded that * * * more than one model year of cars equipped with catalysts

could result in ambient levels of sulfates reaching levels at which recent studies suggest there will be adverse health effects."

Since in endorsing the catalyst E.P.A. also recognized the need for further study of sulfate emissions, I feel it is incumbent upon the Agency to protect the public by minimizing the possible adverse health effects. You testified that one possible control measure might be to take the sulfur out of gasoline; and you assured the Senate Public Works Committee that E.P.A. would not only begin soliciting information on measures for controlling the sulfur content of gasoline, but would also encourage the petroleum industry voluntarily to make available low sulfur fuels for 1975 model vehicles. So far as I have been able to ascertain, no action has yet been taken to commence this study of the desulfurization of gasoline.

And now the enclosed memorandum indicates that the use of certain fuel additives might present other dangers. I understand that there is serious concern within the scientific community that some additives could, due to their high sulfur and heavy metal content, increase the emission problems in catalyst-equipped cars. And, in addition, I have been informed by E.P.A. scientists that it is possible that high concentrations of sulfur or metallic components could cause premature deterioration of the catalyst, resulting in a reduction of emission control to pre-1970 levels and the imposition of yet another financial burden on the consumer who would be required to replace the device.

Under the Clean Air Act, E.P.A. was given the authority to require testing and registration of fuels and fuel additives in order to insure the adequate performance of emission control devices and the protection of the public health. Yet, after over two years of stalling by E.P.A. and other government agencies, the proposals for the Fuel and Fuel Additive Registration Regulations have still to be published. I find this delay inexplicable, irresponsible and inexcusable, especially in light of the serious questions that have been raised about the catalyst.

Obviously, immediate action is crucial and I would like to know: a) what specific steps are being taken to expedite the testing and registration of fuel and fuel additives; b) the progress of the fuel desulfurization program; and c) what additional testing of unregulated emissions is planned to assess the effects on the public health and welfare.

Sincerely,

JOHN V. TUNNEY,
U.S. Senator.

ENVIRONMENTAL PROTECTION AGENCY,
Research Triangle Park, N.C., November 8, 1973.

Reply to Attn. of: Dr. F. Gordon Hueter, Director, Special Studies Staff.
Subject: Fuel and Fuel Additive Registration Regulations—No Room for Delay.
To: Director, NERC-RTP.

The proposed Fuel and Fuel Additive Registration regulations, pursuant to Section 211 of the 1970 Clean Air Act Amendments, were initially prepared by the Office of Fuel and Fuel Additive Registration, NERC-RTP, in the summer of 1971. The proposed regulations have been reviewed, rewritten, and reapproved within EPA a number of times since then. In May 1973, the Congress expressed concern that these proposed regulations had not been published as a notice of intended rulemaking. At that time, Mr. Fri, the then acting Administrator, assured Congressional leaders that the proposed regulations would be published "in the near future."

The attachment reflects the events since May 1973—regarding these proposed regulations. The proposal package went to OMB in mid-October. No action has been forthcoming from OMB regarding the status of the regulations even though the "Quality of Life Review" had been conducted with other affected Federal agencies prior to submission to OMB. The submission to OMB discusses all issues raised in the interagency review process, in detail, and reflects changes within the proposed regulations based upon these comments.

On November 6, 1973, Mr. Russell Train, the EPA Administrator, presented testimony to the Senate Public Works Committee regarding sulfate emissions from catalytic converters intended for use on most domestic 1975 and all 1976 domestic U.S. light-duty motor vehicles. Mr. Train's decision to permit the

planned use of such catalysts was predicated upon the consideration that substantial reductions in sulfur levels in fuels for these vehicles may be required to assure the public health. Inherent in that decision is the need for EPA to insure that no fuel component or fuel additive be permitted in the fuel required for these devices that may have an adverse effect upon the performance of the devices in the hands of the consuming public.

Indeed, this is one of the specific intents of Section 211. Without registration regulations pursuant to this section, EPA will not be able to assure the adequate performance of catalytic devices and, thus, the protection to public health intended by the Act.

Vehicles equipped with catalytic devices will be sold in September 1974. Consistent with the time required to 1) publish the notice of intended rulemaking, 2) receive comments, 3) promulgate regulations, 4) receive and review registrations, and 5) require such testing as may be required before registration is permitted, there is simply no more room for delay.

REPLY TO CONGRESSMAN STAGGERS' LETTER OF JUNE 22, 1973

The following outlines actions taken regarding proposed regulations pursuant to Section 211 of the '70 Amendments, Fuel and Fuel Additive Registration:

May 3, 1973—Mr. Fri and staff members met with Mr. Staggers and Mr. Rogers. Mr. Fri indicated that these regulations would be forthcoming in the near future.

May 4, 1973—Proposed regulations package, including briefing memo, were delivered to Headquarters by NERC-RTP. Briefing memo signed by Dr. Greenfield; package forwarded to Mr. Fri's office.

May 7-8, 1973—Proposed regulations reviewed by all Assistant Administrators. Comments returned to Dr. Greenfield.

May 18, 1973—NERC-RTP attended meeting with Dr. Greenfield and others from OAWP, OGC, and OPE. Revised briefing memo reviewed. Revisions based upon May 7-8 comments. Group required further revision in briefing memo.

May 24, 1973—Re-revised proposed regulations signed by Dr. Greenfield; forwarded to Mr. Fri's office.

June 4-8, 1973—OGC sought preamble rewrite necessitated by Federal Register requirements. Found in Marshall Miller's office. Unaccountably held for 2-3 weeks there.

June 19, 1973—Regulation package arrived at OPE.

June 20, 1973—OPE sent package to Mr. Sanson; OAWP for sign-off.

June 21, 1973—OPE received signed package back from OAWP.

July 5, 1973—OPE holding proposed regulation package awaiting receipt of additional copies from NERC-RTP (mailed 6-29-73).

The following are planned by OPE in the immediate future:

1. Send copies of proposed regulations to other affected agencies (DOT, HEW, etc.).

2. Send copy of proposed regulations to OMB.

3. Steps 1 and 2 will require a minimum of one month.

4. Obtain Administrator's sign-off after steps 1 and 2 are completed.

5. Forward to Federal Register.

It is reasonable to assume that the proposed regulations will be published in the Federal Register as a notice of proposed rulemaking no earlier than mid-September 1973. I would estimate the probable date to be November 1973.

CHAPTER 11

S. 2589, TOGETHER WITH DEBATE AND REPORT

INTRODUCTION IN THE SENATE OF S. 2589, OCTOBER 18, 1973

By Mr. JACKSON (for himself, Mr. Randolph, and Mr. Magnuson) :
S. 2589. A bill to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 2589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Emergency Petroleum Act of 1973."

TITLE I—STATEMENT OF FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress hereby determines that—

(a) shortages of crude oil, residual fuel oil, and refined petroleum products caused by inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist or are imminent;

(b) such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods;

(c) such hardships and dislocations jeopardize the normal flow of commerce and constitute a critical national energy crisis which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(d) political disruptions in the world petroleum supply and distribution system can be expected to cause supply interruptions of imports from foreign sources;

(e) such supply interruptions will result in shortages far greater than any previously anticipated, and could create extremely critical shortage conditions as a result of unduly cold weather, reductions in refinery operations for mechanical or other reasons, and intensified worldwide competition for scarce petroleum;

(f) because of the diversity of conditions, climate, and available fuel mix in different areas of the nation, the primary governmental responsibility for developing and enforcing emergency fuel shortage contingency plans lies with the States and with the local governments of major metropolitan areas.

PURPOSES

SEC. 102. The purpose of this Act is to—

(a) grant to the President of the United States, and direct him to exercise, specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products, or dislocations in their national distribution system. The authority granted under this Act shall be exercised for the purpose of minimizing the adverse impacts of such shortages or dislocations on the American people and the domestic economy;

(b) protect the public health, safety and welfare and the national security, and to assure the continuation of vital public services and full employment in the face of critical energy shortages;

(c) provide a national program to conserve scarce energy resources, through mandatory and voluntary rationing and conservation measures, implemented by Federal, State, and local governments;

(d) direct the President and State and local governments to develop and demonstrate contingency plans which shall have the practical capability of reducing U.S. petroleum consumption by 10 percent within 10 days, and by 25 percent within 4 weeks of any interruption of normal supply.

TITLE II. EMERGENCY FUEL SHORTAGE CONTINGENCY PROGRAMS

PRESIDENTIAL AUTHORIZATION

SEC. 201. (a) The President is hereby authorized to declare a national or regional emergency requiring implementation of emergency fuel shortage contingency programs as provided for in this title. For the purposes of this Act, the term "emergency fuel shortage" means a disparity of 5 percent or more between energy requirements and energy supply, or between the available supply of petroleum and petroleum products and requirements for such fuels.

(b) The President may, at his discretion, extend or renew the declared emergency fuel shortage as long as the shortage conditions, described in subsection (a) above, continue to exist.

EMERGENCY FUEL SHORTAGE CONTINGENCY PLANS

SEC. 202. (a) Not later than 30 days after the date of enactment of this Act, the President shall promulgate requirements for emergency rationing, conservation, and contingency programs to be developed by each State and major metropolitan government, and to be implemented for the President by such State and local governments in the event the President determines there is an emergency fuel shortage. Such programs, which must be developed within 90 days after the date of enactment of this Act, shall assure that all vital services will be maintained and that unnecessary energy consumption will be curtailed.

(b) The rationing and conservation programs provided for in subsection (a) above shall include the following conservation measures:

(1) an established priority system and plan for rationing of scarce fuels among distributors and consumers during periods of critical shortages, and

(2) measures to reduce energy consumption in the affected area by 10 percent within 10 days, and by 25 percent within 4 weeks after implementation.

(c) In the event that a State or major metropolitan area fails to design and implement a contingency program as provided for in subsection (a), the President shall implement for such State or metropolitan area a Federal rationing and energy conservation program which will include the following mandatory measures:

(1) reduction in maximum speed limits on all roads to 50 miles per hour or less;

(2) a program to require regular engine tuneups for all automotive vehicles;

(3) discontinuation of all advertising encouraging increased energy consumption;

(4) regular inspection and maintenance of commercial and industrial heating and air-conditioning units;

(5) maximum winter thermostat settings of not more than sixty-five degrees Fahrenheit and minimum summer settings of not less than eighty degrees Fahrenheit in all buildings owned or leased by the Federal Government;

(6) increased average occupancy of private automobiles through the use of car-pools. During commuter rush hours and at other specified times, parking and access in certain critical areas may be limited to cars with three or more occupants;

(7) a program of public education to encourage energy conservation measures in private homes and in the private sector, including:

(A) regular inspection and maintenance of home heating and air-conditioning units, and

(B) reductions in heating, hot water and electricity consumption.

MANDATORY FEDERAL ACTION FOR FUEL CONSERVATION

SEC. 203. Notwithstanding any action taken on the part of State or local governments pursuant to Section 202, the President shall in time of actual or impending emergency fuel shortage:

(a) require that existing electrical powerplants which now burn petroleum or natural gas and which have the capability to reconvert to coal shall convert the necessary plant equipment and revert to burning coal as their primary energy source. If necessary, the President may grant temporary variances from air quality emissions standards on a plant-by-plant basis, for the duration of the emergency fuel shortage only, to permit the burning of coal if the only available coal, when burned, will exceed established air quality standards.

(b) authorize independent regulatory authorities, such as the Civil Aeronautics Board and the Interstate Commerce Commission, to permit variances from existing schedules and routings to increased load factors, reduce the number of scheduled trips, or shorten distances traveled, in order to conserve fuel. In particular, airlines shall be required to operate at maximum capacity wherever possible.

(c) develop and implement Federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems, and Federal subsidies for reduced fare and additional expenses incurred because of increased service, for the duration of the emergency fuel shortage.

MANDATORY FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES

SEC. 204. In the event an emergency fuel shortage is declared pursuant to Section 201, the President shall also initiate the following measures to supplement domestic energy supplies for the duration of the emergency :

(a) Require production of certain designated existing domestic oil fields at rates in excess of their current established Maximum Efficient Rates (MER). Fields to be so designated by the appropriate State governments or by the Office of Oil and Gas, shall be those where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable MER for periods of 90 days or more without excessive risk of losses in recovery.

(b) Authorize the Office of Oil and Gas to require :

(1) a program of mandatory allocation of crude supplies to ensure that all refineries are operating at maximum possible capacity, and

(2) the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the priorities established in accordance with section 202. The Office of Oil and Gas shall make projections of anticipated product requirements and mandate the necessary adjustments in domestic refinery runs accordingly.

EXTENSION AND DEVELOPMENT OF CONTINGENCY SUPPLIES

SEC. 205. The President is hereby authorized to :

(a) (1) require production of oil and gas from currently developed resources of the Naval Petroleum Reserves No. 1, 2, 3 and 4; and

(2) require expeditious exploration and further development of these reserves to :

(A) determine full extent of the oil and gas reserves located thereon ; and

(B) make possible the production of oil and gas from the reserves at or in excess of their maximum efficient rate.

(b) require electric powerplants in the planning process or under construction, which are designed to burn oil or gas, to be designed and constructed with the ready capability to burn coal as well as oil and gas as a primary fuel.

(c) develop and implement such plans and programs as may be necessary to facilitate and expedite the greatest possible expansion of existing domestic production and refinery capacity.

TITLE III. ADMINISTRATION AND AUTHORIZATIONS

CONGRESSIONAL APPROVAL

SEC. 301. Within 30 days after the date of enactment of this Act, the President shall submit to Congress requirements for the emergency fuel shortage contingency programs provided for in Title II of this Act. These requirements will be approved by Congress unless, within 15 days of such submission, 7 of which must have been in legislative session, the Congress specifically disapproves of all or part of the program, and concurrently offers specific alternative provisions for those portions disapproved.

ECONOMIC INCENTIVES

SEC. 302. The Cost of Living Council is hereby authorized and directed to develop incentives to encourage private industry and individual persons to subscribe to the goals of this Act and to comply with the requirements to programs developed and implemented pursuant to this Act.

STATE LAWS

SEC. 303. (a) No State law or program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any program issued pursuant thereto except insofar as such State law or program is inconsistent with the provisions of this Act.

(b) Any provision of any State law or program in effect upon the date of enactment of this Act, or which may become effective thereafter, which provides for more stringent energy conservation and more efficient allocation than do the provisions of this Act or any program implemented pursuant thereto shall not be construed to be inconsistent with this Act. Any provision of any State law or program in effect on the date of enactment of this Act, or which may become effective thereafter, which provides for the conservation or allocation of energy for which no provision is contained in this Act shall not be construed to be inconsistent with this Act.

GRANTS TO STATES

SEC. 304. The President is hereby authorized to make grants to any State or major metropolitan government, for the purpose of assisting such State or local government in developing, administering and enforcing emergency fuel shortage contingency plans under this Act.

AUTHORIZATIONS

SEC. 305. There are hereby authorized to be appropriated \$150,000,000 for the purposes of this Act.

SEPARABILITY

SEC. 306. If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

SUMMARY

TITLE I

Section 101—Findings

- (a) Shortages exist and are imminent;
- (b) Shortages will create severe economic dislocation and hardship;
- (c) Action by the Executive Branch can minimize or avert hardship;
- (d) Political disruptions can cause interruptions in imports;
- (e) Such supply interruptions will create shortages far worse than those for which we have planned; and
- (f) Primary responsibility for emergency fuel shortage contingency plans lies with state and local government.

Section 102—Purpose

- (a) to grant and direct the exercise of Presidential Authority needed to minimize adverse impact of shortages;
- (b) to protect public health and safety;
- (c) to provide a national program to conserve scarce energy;
- (d) to direct the development and demonstration of government contingency plans.

TITLE II—EMERGENCY FUEL SHORTAGE CONTINGENCY PROGRAMS

Section 201—Presidential authorization

Authorizes President to declare national or regional emergency; and
 Defines emergency as disparity of 5% between energy requirements and supplies.

98D CONGRESS }
1st Session }

SENATE

{ REPORT
{ No. 93-498

NATIONAL ENERGY EMERGENCY
ACT OF 1973

REPORT
OF THE
COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS
UNITED STATES SENATE
TO ACCOMPANY
S. 2589



NOVEMBER 13, 1973.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1973

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS**HENRY M. JACKSON, Washington, *Chairman*****ALAN BIBLE, Nevada****FRANK CHURCH, Idaho****LEE METCALF, Montana****J. BENNETT JOHNSTON, Jr., Louisiana****JAMES ABOUREZK, South Dakota****FLOYD K. HASKELL, Colorado****GAYLORD NELSON, Wisconsin****PAUL J. FANNIN, Arizona****CLIFFORD P. HANSEN, Wyoming****MARK O. HATFIELD, Oregon****JAMES L. BUCKLEY, New York****JAMES A. McCLURE, Idaho****DEWEY F. BARTLETT, Oklahoma****JERRY T. VERKLER, *Staff Director*****WILLIAM J. VAN NESS, *Chief Counsel*****HARRISON LOESCH, *Minority Counsel*****(II)**

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Calendar No. 473

93D CONGRESS }
1st Session }

SENATE

{ REPORT
No. 93-498

NATIONAL ENERGY EMERGENCY ACT OF 1973

NOVEMBER 13, 1973.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany S. 2589]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following language:

That this Act may be cited as the "National Energy Emergency Act of 1973".

TITLE I—STATEMENT OF FINDINGS AND PURPOSES

SEC. 101. FINDINGS.—*The Congress hereby determines that—*

(a) *shortages of crude oil, residual fuel oil, and refined petroleum products caused by inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;*

(b) *such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods;*

(c) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute a nationwide energy emergency which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(d) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(e) interruptions of energy supplies, both in the near term and in the future, will require emergency measures to reduce energy consumption, increase domestic production of energy resources, and provide for equitable distribution of available supplies to all Americans;

(f) the development of a comprehensive energy policy to serve all of the people of the United States necessitates the regulation of intrastate delivery and use of energy resources, other than natural gas, in order to insure the effective regulation of interstate and foreign commerce in energy;

(g) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing emergency fuel shortage contingency plans lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act.

SEC. 102. PURPOSES.—The purpose of this Act is to—

(a) declare by Act of Congress an energy emergency;

(b) grant to the President of the United States, and direct him to exercise, specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products, and other fuels, or dislocations in their national distribution system;

(c) provide a national program to conserve scarce energy resources, through mandatory and voluntary rationing and conservation measures, implemented by Federal, State, and local governments;

(d) protect the public health, safety, and welfare and the national security, and to assure the continuation of vital public services and maximum employment in the face of critical energy shortages;

(e) minimize the adverse effects of such shortages or dislocations on the economy and industrial capacity of the Nation;

(f) insure that measures taken to meet existing emergencies are consistent, as nearly as possible, with existing national commitments to protect and improve the environment in which we live; and

(g) direct the President and State and local governments to develop contingency plans which shall have the practical capability for reducing energy consumption by no less than 10 per centum within ten days and by no less than 25 per centum within four weeks of any interruption of normal supply.

TITLE II—EMERGENCY FUEL SHORTAGE CONTINGENCY PROGRAMS

SEC. 201. DECLARATION OF EMERGENCY.—The Congress hereby declares that current and imminent fuel shortages have created a nationwide energy emergency.

SEC. 202. PRESIDENTIAL AUTHORIZATION.—(a) The President is hereby authorized and directed to implement emergency fuel shortage contingency programs as provided for in this title.

(b) For the duration of the energy emergency, the President is further authorized to enter into appropriate understandings, arrangements, or agreements with foreign states, or foreign nationals, or international organizations, to adjust and allocate imports of fossil fuels, or take such other action as he deems necessary, with respect to trade in fossil fuels, in order to achieve the purposes of this Act. Any such formal agreement shall be submitted to the Senate of the United States, and shall be operative, but shall not become final until the Senate has had fifteen days, no less than seven of which shall be legislative days, to disapprove of such agreement.

(c) The declared nationwide energy emergency and the authority granted by this Act shall terminate one year after the date of enactment of this Act. Six months after the date of enactment of this Act, the President shall submit to the Congress an interim report on the implementation of the Act, together with such recommendations for amending or extending the Act as he deems appropriate.

SEC. 203. EMERGENCY FUEL SHORTAGE CONTINGENCY PLANS.—(a) Not later than fifteen days after the date of enactment of this Act, the President shall promulgate a plan for a nationwide emergency energy rationing and conservation program. Such program shall assure, insofar as is practicable, that all vital services will be maintained and that unnecessary energy consumption will be curtailed.

(b) The rationing and conservation program provided for in subsection (a) shall include the following:

(1) an established priority system and plan, including a program to be implemented without delay, for rationing of scarce fuels quantitatively and qualitatively among distributors and consumers for the duration of the emergency. To the extent practicable such priority and rationing program shall include, but not be limited to, measures adequate to insure that available low sulfur fuel will be distributed on a priority basis to those areas of the country, designated by the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impacts on public health; and

(2) measures capable of reducing energy consumption in the affected area by no less than 10 per centum within ten days, and by no less than 25 per centum within four weeks after implementation. Such measures shall include, but are not limited to: transportation control plans; restrictions against the use of fuel or energy for nonessential uses such as lighted advertising and recreational activities; a ban on all advertising encouraging increased energy consumption; limitations on operating hours of commercial establishments and public services, such as schools;

temperature restrictions in office and public buildings, including wholesale and retail business establishments; and reductions in speed limits.

(c) Within two weeks of the date of enactment of this Act, the President shall also promulgate requirements for emergency energy conservation and contingency programs to be developed by each State and major metropolitan government, to implement the Federal program described in subsection (a) above. Such programs, which must be developed within eight weeks after the date of enactment of this Act and submitted for approval to the President, shall include at a minimum the provisions set forth in subsection (b) above. The President shall approve and direct the States to implement those State plans or portions thereof which he determines meet the requirements of this section for emergency energy conservation and contingency programs and which are necessary to deal with the energy shortage conditions facing the Nation.

(d) In the event that a State or major metropolitan government fails to design and implement a contingency program as provided for in subsection (c), the Federal program implemented pursuant to subsection (a) above, shall remain in effect for such State or metropolitan government.

(e) The President shall direct immediate implementation of those rationing and conservation measures contained in the plans in this section as needed to achieve the purposes of this Act.

(f) Nothing contained in this Act shall authorize the President to regulate or allocate natural gas not otherwise subject to the jurisdiction of the Federal Power Commission, except for the purpose of prohibiting the burning of gas for decorative purposes and except as provided in section 204(a) of this Act: Provided, however, That State regulatory bodies having jurisdiction over such natural gas shall cooperate with the President to achieve the conservation objectives of this Act.

SEC. 204. FEDERAL ACTION FOR FUEL CONSERVATION.—Notwithstanding any action taken on the part of State or local governments pursuant to the rationing and conservation programs required by section 203:

(a) the President may, in accordance with the rationing and conservation program required by section 203, require, after balancing on a plant-by-plant basis the environmental effects of such conversion against the need to fulfill the purposes of this Act, that any major fossil fuel burning installations, including existing electric generating plants, which now burn petroleum or natural gas and which have the ready capability and necessary plant equipment to burn coal or other fuels to convert to burning coal or other fuels as their primary energy source. Any installation so converted will be permitted to continue to use such fuel for at least one year, subject to the variance procedure of the Clean Air Act, as amended, (). Insofar as practicable, conversions shall first be required for those plants where the use of coal or other fuels will have the least adverse environmental impact. Such conversions shall be carried out contingent upon the availability of coal, and the maintenance of reliability of service in a given service area. The President shall require that fossil fuel fired electrical powerplants now in the planning process be designed and con-

structed so as to have the capability of rapid conversion to burn coal.

(b) (1) *The Interstate Commerce Commission, with respect to carriers subject to regulation under sections 1(1) and 304(a) (1) of title 49, United States Code (49 U.S.C. 1(1), 304(1) (a)), the Civil Aeronautics Board, and the Federal Maritime Commission, with respect to carriers operating in the domestic trades of the United States including its territories and possessions, for the duration of the energy emergency, in addition to their existing powers, shall have the authority on their own motion or by motion of any interested party, to review and make reasonable and necessary adjustments to the operating authority of carriers within their respective jurisdictions in order to conserve fuel while providing for the public convenience and necessity. Such adjustments may include but need not be limited to adjusting and rationalizing the operations of such carriers with regard to frequency of service, points served, scheduling to prevent duplication of service and reviewing or adjusting rate schedules to reflect such adjustment and rationalization. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law, after hearings in accordance with section 553 of title 5 of the United States Code. Any person adversely affected by an action shall be entitled to a judicial review of such action in accordance with chapter 7 of title 5 of the United States Code.*

(2) *Within fifteen days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the energy emergency while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—*

- (1) the type of regulatory authority needed;*
- (2) the reasons why such authority is needed;*
- (3) the probable impact on fuel conservation of such authority;*
- (4) the probable effect on the public convenience and necessity of such authority; and*
- (5) the competitive impact, if any, of such authority.*

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to conserve fuel while providing for the public convenience and necessity.

(3) *The regulatory agencies subject to this subsection (b) may, where appropriate, consult with departments or agencies of the Federal Government having expertise or jurisdiction over the mode of transportation involved.*

(c) *the President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems, and Federal subsidies for reduced fares and additional expenses incurred because of increased service, for the duration of the energy emer-*

gency. For the purposes of this section, paragraph (3) of subsection (c) of section 142 of title 23, United States Code, is amended as follows: strike the period at the end of the paragraph and add the following: "except that, with respect to the purchase of buses and rolling stock for fixed rail, the Federal share shall be 80 per centum."

(d) the President shall solicit recommendations from the Secretary of the Department of Transportation as to changes in Federal and State policies relating to motorized transport on the interstate highway system which would result in significant savings of fuel.

(e) All Federal Departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President, within thirty days of enactment of this Act, specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

SEC. 205. AIR QUALITY REQUIREMENTS.—Should a Presidential order to change fuels pursuant to subsection 204(a) result in a violation of an air quality implementation plan, a variance may be granted in accordance with the provisions of the Clean Air Act, as amended.

SEC. 206. ENVIRONMENTAL IMPACT STATEMENTS.—No major action taken under this Act shall, for a period of one year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, prior to taking any such major action that has a significant impact on the environment, if practicable, or in any event within sixty days of taking such action, an environmental evaluation, with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act of 1969, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a thirty-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act of 1969 by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one-year period, or any action to extend an action taken under this Act to a total period of more than one year shall be subject to the full provisions of the National Environmental Policy Act of 1969 notwithstanding any other provision of this Act.

SEC. 207. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.—The President is authorized to initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(a) Require on a mandatory basis the production of designated existing domestic oilfields at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under

sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and the operators who have drilled wells in, or are producing oil and gas from such fields.

(b) Require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands, under their respective jurisdiction shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery.

(c) Require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the priorities established in accordance with section 203.

(d) (1) Require production of oil and gas from the currently developed resources of the naval petroleum reserves whenever the availability of petroleum products to the Armed Forces of the United States necessitates that the Department of Defense be accorded special priority for the purchase of petroleum products from United States suppliers under the terms of the Defense Production Act of 1950. Such production is the equivalent of production for "national defense" as used in section 7422 of title 10, United States Code, as amended, and related sections.

(2) Expedite the full exploration and development of Naval Petroleum Reserves Numbers One, Two, and Three, and expedite the full exploration of Naval Petroleum Reserve Number Four.

(e) Order the acceleration of lease sales of energy resources on public lands, subject to existing law, to include, but not limited to, oil and gas leasing onshore and offshore and geothermal energy leasing: Provided, That the exemptions provided for in section 206 shall not be applicable to this subsection 207(e).

SEC. 208. ADVERSE IMPACT ON EMPLOYMENT.—In carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

TITLE III—ADMINISTRATION AND AUTHORIZATIONS

SEC. 301. CONGRESSIONAL APPROVAL.—Within two weeks after the date of enactment of this Act, the President shall submit to Congress his proposals for the emergency contingency programs provided for in title II of this Act, and proposals for implementing such programs. The Congress may, within fifteen days of such submission, five of which must have been in legislative session, by concurrent resolution specifically disapprove all or part of the program or proposal.

SEC. 302. (a) LOCAL ADMINISTRATION.—The President may, in the implementation of any nationwide energy emergency rationing and conservation program, utilize a system of State and local offices as provided in this section.

(b) **STATE AGENCIES.**—The President is authorized to permit appropriate State agencies to operate the program within each State through local boards or other local agencies, including appeal agencies, as may be necessary to insure that the nationwide program is implemented within each State in a manner responsive to the immediate needs of the locality and, consistent with the nationwide energy emergency rationing and conservation program. The State agencies are authorized and may be directed to consult with the elected officials of each locality when appointing the officials of such local agencies.

(c) **ADDITIONAL FUNCTIONS.**—The legislature of any State may in the development of any program of energy rationing or conservation, authorize the State agency to perform additional functions under State law: Provided, That the President may, by regulation, require such additional functions to be approved prior to their being implemented by the State agency.

SEC. 303. ECONOMIC INCENTIVES.—The Secretary of the Treasury and the Director of the Cost of Living Council are hereby authorized and directed to study and recommend to the Congress specific incentives to increase energy supply, reduce demand, and to encourage private industry and individual persons to subscribe to the goals of this Act and to comply with the requirements of programs developed and implemented pursuant to this Act. The study and recommendations required by this section shall include an analysis of the actions required to implement the principle that the producers and users of energy should pay the full long-run incremental cost of obtaining incremental supplies of energy.

SEC. 304. STATE LAWS.—No State law or program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any program issued pursuant thereto except insofar as such State law or program is inconsistent with the provisions of this Act.

SEC. 305. FEDERAL FACILITIES.—Whenever practicable, and for purposes of facilitating the transportation and storage of fuel during the effective period of this Act, agencies or departments of the Federal Government are authorized to enter into arrangements for use by domestic public entities and private industries of equipment or facilities which are in idle status or otherwise excess to the short-term needs of such agency: Provided, however, That such arrangements shall be made at fair-market prices and only after a finding by the agency of nonavailability of suitable equipment or facilities within private industry in the region of need.

SEC. 306. SANCTIONS.—Any person who—

(a) Willfully violates any order or regulation issued pursuant to this Act shall be fined not more than \$5,000 for each violation.

(b) Violates any order or regulation issued pursuant to this Act shall be subject to a civil penalty of not more than \$2,500 for each day he is in violation of this Act, for each violation.

SEC. 307. LOANS TO HOMEOWNERS AND SMALL BUSINESSES.—The Federal Housing Administration and the Small Business Administration are authorized to make low interest loans to homeowners and small businesses for the purpose of installing new and improved insulation, storm windows, and more efficient heating units.

SEC. 308. NATIONAL ENERGY EMERGENCY ADVISORY COMMITTEE.—(a) There is hereby created a National Energy Emergency Advisory Committee, which shall advise the President with respect to all aspects of implementation of this Act. The cochairman of the committee shall be the Director of the Office of Energy Policy. In addition to the cochairman, the committee shall consist of fifteen members appointed by the President, who shall represent the following interests: energy industry, including producers, refiners, transporters, and marketers; transportation; industrial energy users; small business; labor; agriculture; environmental; State and local government; and consumers.

(b) The head of each of the following agencies shall designate a representative who shall serve as an observer at each meeting of the advisory committee and shall assist the committee to perform its advisory functions:

- (1) the executive departments as defined in section 101 of title 5, United States Code;
- (2) Interstate Commerce Commission;
- (3) Atomic Energy Commission;
- (4) Federal Power Commission;
- (5) Federal Trade Commission;
- (6) Civil Aeronautics Board; and the
- (7) Federal Maritime Commission.

SEC. 309. ADMINISTRATIVE PROCEDURE.—(a) Except as expressly provided otherwise in this Act, the functions exercised under this Act are excluded from the operation of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, except as to the requirements of sections 552, 553, 555 (c), and 702 of title 5, United States Code.

(b) Any agency authorized by the President to issue rules, regulations, or orders under this Act shall, in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(c) To the maximum extent possible, any agency authorized by the President to take any action under this Act shall conduct formal hearings for the purpose of hearing arguments or acquiring information bearing on actions or proposed actions, other than procedures to which 5 U.S.C. section 553 would apply according to subsection (a) of this section, taken or to be taken under sections 203, 204, 205, 206, 207, and 312 of this Act.

SEC. 310. JUDICIAL REVIEW.—Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United

States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

Notwithstanding the amount in controversy, the District Courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

SEC. 311. MATERIALS ALLOCATIONS.—To achieve the purpose of this Act, the President is authorized to take such action as may be necessary to allocate supplies of materials associated with production of energy supplies, and equipment to the extent necessary to maintain and increase the production of coal, crude oil and other fuels.

SEC. 312. GRANTS TO STATES.—The President is hereby authorized to make grants to any State or major metropolitan government, in accordance with, but not limited to, section 302, for the purpose of assisting such State or local government in developing, administering, and enforcing emergency fuel shortage contingency plans under this Act and fuel allocation programs authorized under the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, Nov. 10, 1973).

SEC. 313. STUDY OF HEALTH EFFECTS OF SULFUR OXIDE EMISSION.—In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 204(a) the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of \$5,000,000 is authorized to be appropriated for such a study.

SEC. 313. In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 204(a) the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of \$5,000,000 is authorized to be appropriated for such a study.

SEC. 314. AUTHORIZATIONS.—There is hereby authorized to be appropriated such funds as are necessary for the purposes of this Act.

SEC. 315. SEPARABILITY.—If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

Amend the title so as to read:

“A BILL To declare by congressional action a *nationwide* energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to initiate the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes.”

I. PURPOSE

The purpose of S. 2589, “The National Energy Emergency Act of 1973,” is to declare, by act of Congress, an energy emergency and to authorize the President to take specific actions to conserve scarce fuels, alleviate fuel shortages and increase domestic energy supplies. The bill provides for emergency conservation and contingency plans to be developed at the national, State and local levels to reduce nonessential energy consumption and assure the continuation of vital services in the face of severe fuel shortages. Specific conservation measures are mandated for inclusion in such programs, but implementation may be accomplished by State and local governments. Grants and assistance are provided to these States and local governments for the purpose of implementing the provisions of this bill and any allocation legislation Congress may adopt.

S. 2589 also provides for optimizing the use of scarce fuels by requiring conversion of certain fossil-fueled powerplants from oil or gas to coal and other fuels. Increased supply of domestic oil is also required. Variances from air pollution control standards, and from the National Environmental Policy Act are permitted under certain limited conditions, to allow expeditious implementation of the emergency measures set forth in the bill.

II. NEED

This legislation is urgently needed now because we are faced with severe unanticipated shortages in fuel supplies that require emergency measures not now provided for under existing statute.

On September 15, 1973 a report issued by the Department of the Interior, Office of Oil and Gas, forecast for the winter of 1973-74, a distillate fuel oil shortage for the eastern United States of from 100 to 250 thousand barrels per day, dependent upon the weather. The causes of these shortages were: (1) limitations of U.S. refinery capacity; (2) predicted high refinery yields of gasoline; (3) depleted domestic distillate stocks; (4) rising consumption; and; (5) limited availability of distillate imports. The report assumed U.S. crude oil imports sufficient to permit the operation of refineries at 91.7 percent of capacity, distillate yields of 22.4 percent, and a maximum volume of distillate imports of about 550,000 barrels a day, of which approximately 165,000 were to be from Western Europe. This projected distillate shortage, when added to that which had earlier been identified for propane, confronted the nation in September with the prospect

for the winter of 1973-74 of serious inconveniences for the public and severe dislocations for the economy.

On October 6 war broke out in the Middle East. By October 16 the direct impact of the war had resulted in the loss of nearly 2 million barrels of crude oil per day to European refineries, threatening not only imports which the United States required for domestic consumption, but also the petroleum requirements of American Armed Forces in the European area.

Following a meeting of Arab oil producing nations on October 17, 1973, the collective crude oil production of Arab oil nations was curtailed by 5 percent effective that date with a stated intention to cut back 5 percent each month thereafter until U.S. policy in the Middle East was aligned with Arab goals. Subsequently oil exports, direct and indirect, to the United States and other nations were specifically embargoed by Saudia Arabia and other producers. By the date this act was reported, some Arab nations had already reduced oil production by 25 percent and announced further reductions for coming months.

At this date the total impact on the United States and on other consumer nations of reduced Arab oil production and of curtailment or embargo on exports is undetermined. On October 12 it was estimated that the total resultant shortage of crude oil and petroleum products for the United States would be 1.2 million barrels per day. By October 20 this estimate had reached 1.6 million; by October 24: 2 million; and by October 30: 2 to 2.5 million. All of these estimates represented the best data available at the time from the executive branch, which is now projecting a shortage of as much as 3 million barrels a day out of an estimated national consumption of 18 million barrels a day. This sequence of reports and revisions illustrates the magnitude of the problem with which the nation is faced and the government's failure to have heretofore fully understood the nature and extent of American dependence upon petroleum from Arab sources.

We are now facing a real energy emergency, and must take rapid action to minimize adverse impacts of severe fuel shortages. Testimony received by the committee in the course of hearings on S. 2589 indicated that: (a) the nation is faced with the probable denial of approximately 20 percent of U.S. petroleum requirements for at least the next 6 to 12 months; (b) petroleum imports in the next 3 to 5 years will be characterized by rising prices, unreliability, and probable inadequacy when compared to projected demand.

It has been all too easy to satisfy our burgeoning demand for energy by a growing dependence on foreign sources of oil. The dangers of such dependence were not always clear, as long as these imports were relatively inexpensive and relatively assured. However, the drawbacks of such a dependence have been emphasized by recent events. Domestic self-sufficiency has become an immediate need as well as a long-term goal.

In some ways the current situation is comparable to the supply problems of World War II. The facts, however, are that our energy supply situation today is far more critical than in the 1940's. At that

time we were a net exporter of energy. We produced in excess of our own requirements and rationing permitted us to supply our allies with fuel. Today, we are net importers, and we consume more fuel than we produce. With 6 percent of the world's population, we consume one-third of the world's energy.

Clearly, we face an emergency situation. Serious shortages in oil and in electric power will occur, and could have dire consequences, unless we act now to preclude them. We must insure the continuation of vital public services throughout such emergency shortages.

Considering the magnitude of anticipated fuel shortfalls, and the degree of our dependence on petroleum products, the committee deemed that emergency conditions now exist and will worsen. Declaration of this emergency enables suitable corrective measures to be taken immediately.

Whereas current law or pending legislation now provide or will provide the mechanisms to address the medium- to long-term problems posed by the anticipated import situation, there now exists neither adequate contingency plans and programs nor the necessary authority upon which to base such plans and programs in order to permit the executive branch to meet the challenge with which the Nation is faced during the current winter. The purpose of S. 2589 is to provide authority, impetus, and direction sorely needed by the administration to effectively guide and direct the Nation's consumption and production of energy in such a way as to minimize for the next 12 months the adverse impact of reduced petroleum supplies on the health, welfare, economy, and security of the Nation.

It is essential, in the face of serious fuel shortages, that scarce fuels be allocated on a priority basis to assure continuation of vital services, and that the burden of the shortages be minimized and distributed as equitably as possible. In order to achieve these goals, an energy conservation and rationing program must be implemented without delay to curtail nonessential uses of fuel and energy. S. 2589 provides the authority necessary to achieve this end.

III. MAJOR PROVISIONS

DECLARATION OF ENERGY EMERGENCY

The act contains at the outset a congressional declaration of a nationwide energy emergency caused by existing and anticipated fuel shortages.

While the original language of S. 2589 authorized the President to declare an energy emergency under specified circumstances, it is already clear that the size of the shortages which now exist or will be sustained in the immediate future fully justify the declaration of an energy emergency. It is entirely appropriate that Congress itself declare the emergency in light of the facts now available. The inclusion of this declaration in the act will facilitate early action to forestall the expected effects of unprecedented regional and national fuel shortages.

RATIONING AND CONSERVATION PROGRAMS

The central core of the act is the authority conferred on the President to develop and implement contingency programs to deal with fuel shortages. This authority is mandatory. The President is required to promulgate a plan for a nationwide emergency energy rationing and conservation program within 15 days after the act becomes law. He is directed to implement the rationing and conservation program provided for by the plan.

The nationwide rationing and conservation program is to include two major components. The first is a priority system and plan for rationing of scarce fuels during the energy emergency. The second is a program to reduce energy consumption in affected areas by specified percentages. The act includes a list of measures to reduce consumption which must be included in the program. The list is not exclusive and other elements may be added to the program.

The fundamental purpose of both the rationing and conservation components of the program is to reduce energy consumption as rapidly as possible. This is the only effective alternative for blunting the impact of substantial fuel shortages expected as a result of the Arab embargo.

STATE AND LOCAL GOVERNMENT IMPLEMENTATION

The act contemplates that State and local governments will play a key role in developing and implementing contingency programs. Many States have already taken significant initiatives to deal with fuel shortages and others are in the process of developing State programs.

The act provides that the President will promulgate requirements for the development of programs by the States and major metropolitan governments to implement the Federal rationing and conservation program. These programs, which must include the energy conservation measures specified for inclusion in the Federal program, are to be submitted to the President for approval and he may direct the implementation of all or part of approved plans.

The act also contemplates that the President may rely on the States to manage all or part of the nationwide energy rationing and conservation program. Administration at the State level can provide the opportunity for a more effective program geared to local or regional needs.

IV. COMMITTEE RECOMMENDATIONS

The Committee on Interior and Insular Affairs recommends that S. 2589, as amended, be approved by the Senate.

V. LEGISLATIVE HISTORY

S. 2589 was introduced on October 18, 1973, as a measure to prepare the Nation for severe impending fuel shortages. After the bill was introduced, the severity of the energy emergency was greatly increased

by the actions of the Mideast-producing countries to reduce production and embargo shipments of oil to "unfriendly" nations.

The members and staff of the Senate Committee on Interior and Insular Affairs have been working closely together with the Committees on Commerce, Public Works, and Judiciary, and with the administration to expedite the adoption of this bill.

Two closed hearings were held with Governor Love and other administration officials on October 24 and November 1 to hear their views and suggestions for amendments to the bill. Following these hearings, extensive consultations were held with representatives of the administrative to solicit their views on this legislation. Thus, although the administration did not formally submit to the committee suggestions for a draft bill, administration participation in the drafting of S. 2589, as reported, was such that the present bill is a composite of the S. 2589 as introduced, and suggested amendments proposed by the administration.

A public hearing was held on Thursday, November 8. The hearing began at 9:30 a.m. and adjourned at 8:30 p.m. Witnesses in the morning were representatives of the administration:

Hon. John A. Love,
Director, Energy Policy Office.

Hon. John N. Nassikas,
Chairman, Federal Power Commission.

Hon. John A. Busterud,
Acting Chairman, Council on Environmental Quality.

Hon. Kenneth H. Tuggle,
Acting Chairman, Interstate Commerce Commission.

Hon. Stephen A. Wakefield,
Assistant Secretary for Energy and Minerals,
Department of the Interior.

Mr. Thomas Heye,
Administrative Assistant to the Chairman,
Civil Aeronautics Board.

Mr. Julius Katz,
Deputy Assistant Secretary for International Resources and Food
Policy,
Department of State.

Mr. Hugh Witt,
Deputy Assistant Secretary for Installations and Logistics,
Department of Defense.

Industry representatives and public witnesses were heard in the afternoon.

Mr. Richard Ayers,
Attorney,
National Resources Defense Council.

Mr. Carl E. Bagge,
President,
National Coal Association.

Mr. W. Donham Crawford,
President,
National Association of Manufacturers.

Mr. P. N. Gammelgard,
Senior Vice President for Environmental and Public Affairs,
American Petroleum Institute.

Mr. David Hawkins,
Friends of the Earth.

Mr. Douglas E. Kenna,
President,
National Association of Manufacturers.

Mr. John C. Miller,
President,
Independent Petroleum Association of America.

Mr. Lawrence I. Moss,
President,
Sierra Club.

Hon. Lee C. White,
Chairman, Energy Policy Task Force,
Consumer Federation of America.

Public markup sessions on the bill were held on Friday, November 8, and Monday, November 11, with representatives of the administration present to respond to questions concerning the administration's position on the bill and proposed amendments.

VI. SECTION-BY-SECTION ANALYSIS

Title I.—Statement of Findings and Policy

Section 101. Findings

This section sets forth congressional findings relating to fuel shortages and the energy emergency. These include the fact that we are experiencing fuel shortages, and interruptions in fuel supplies of such unprecedented levels that they constitute a nationwide energy emergency. The findings conclude that these conditions require nationwide emergency measures for energy conservation, distribution and supply, which are best implemented at the State and local level. Such measures, however, are not intended to alter the existing authority of the Federal Power Commission with respect to natural gas distributed on an intrastate basis.

Section 102. Purposes

Section 102 states that the purpose of the act is to declare an energy emergency, and to authorize and direct the President to undertake specific measures, consistent with environmental and public health considerations, to deal with that emergency. It sets out as specific purposes the development of Federal, State and local contingency plans to reduce energy consumption and to minimize the adverse effects of fuel shortages on the economy. It was the express understanding of the committee that the energy emergency is sufficiently serious

that discretionary actions are inadequate. The purpose of S. 2589 is to require immediate action to deal with current emergency conditions.

Title II.—Emergency Fuel Shortage Contingency Programs

Section 201. Declaration of emergency

This section states that Congress declares a nationwide energy emergency.

In declaring this emergency, the committee deliberately did not use the term national emergency, to avoid prolonging or activating the broad emergency powers authorized under existing statute involving other emergency powers.

Section 202. Presidential authorization

This section authorizes and directs the President, for the duration of the energy emergency, to implement emergency fuel shortage contingency plans, and to enter into appropriate trade arrangements with respect to fossil fuels, subject to the approval of Congress. The committee very deliberately directed the President to deal with the energy emergency, to assure that immediate action would be taken to minimize the adverse impact of the current and imminent fuel shortages. Some discretion is allowed, however, as to the timing and scope of implementation of certain mandated measures. For example, while the President is required to ration and allocate scarce fuels, it is he who determines which fuels are scarce.

Subsection 202(c) terminates the energy emergency 1 year after the date of enactment of S. 2589, and requires an interim report to Congress after 6 months of implementation of the act. The intention of the committee in requiring the report and in setting a termination date was to prevent an indefinite extension without congressional approval of the authorities granted by the act, and of the actions taken pursuant thereto.

Section 203. Emergency fuel shortage contingency plans

Subsection 203(a) requires the President, within 15 days of the date of enactment, to promulgate a nationwide energy rationing and conservation program and to assure that vital services will be maintained and that unnecessary energy consumption will be reduced.

The committee very strongly believes that this section is the most important and critical section of S. 2589. The purpose of this act is to reduce energy consumption on an emergency basis, to deal with severe impending fuel shortages. The only way to deal with reduced fuel supplies is to reduce consumption. This section requires plans that will reduce energy consumption in an equitable manner, curtailing wasteful and unnecessary consumption of energy while assuring continuation of essential services.

On occasion, past programs of this nature that effect diverse segments of industry, have been carried out without suitable input from those affected and consequently have resulted in dislocations and undue burdens upon those affected. They have also resulted in constant "after the fact" modifications and adjustments. The committee believes that by soliciting and giving careful consideration to the views and needs of both individuals and corporations, such adverse impacts may be minimized.

Section 203 confers broad authority and wide discretion upon the Government to order actions with potentially enormous social and economic impact. In the long run, the program envisioned by section 203 will be publicly acceptable only to the extent that the programs are designed and carried out in a way that is fair and creates a reasonable distribution of burdens. In these circumstances, there must be some flexibility to permit adjustments to deal with individual circumstances and some form of procedure by which those adjustments can be made. Such procedures need not interfere with the ability of the Government to move promptly to deal with emergency circumstances; Government programs and implementation can be placed into effect and individual adjustments can be considered while the programs are themselves operative. What is essential is the availability of an administrative vehicle by which adjustments may be made or inappropriate governmental action modified.

The committee realizes that there may be hardships during this energy emergency, and does not intend that any sector should bear a disproportional share of the burden.

Subsection 203(b)(1) mandates the establishment of a priority system and plan to be implemented without delay, for the rationing of scarce fuels, on both a quantitative and qualitative basis. The rationing program must also include measures for allocation of low sulfur fuels in order to minimize adverse impacts on public health. It is the committee's belief and finding rationing of gasoline, immediately and without delay, is essential to a nationwide energy conservation program, and to the national interest. The committee did not attempt to legislate a priority system, since allocation needs in different areas may not be the same. However, it is expected that any rationing will be done in an equitable manner.

Subsection 203(b)(2) sets forth a requirement that the rationing and conservation program must have the capability of reducing energy consumption up to 10 percent within 10 days and 25 percent within 4 weeks. While this is considered by some to be a drastic requirement, the committee feels that it is totally consonant with the extent of the emergency situation now facing the country. This subsection also sets forth specific measures including restrictions on transportation and commercial activities, to be included in the program to achieve the goal of reducing energy consumption. Some of these have already been adopted in certain States on a voluntary basis. For example, the Governor of Oregon has already ordered the schools in that State to be closed for a month this winter.

The committee recognizes that certain conservation measures may affect various sectors of the economy in different ways. For example, speed limit reductions may affect commercial trucking more seriously than private commuters. These factors should be taken into account in developing programs pursuant to this Act. However, such inconveniences must be weighed against the fuel savings to be gained. A reduction of maximum driving speeds to 50 miles per hour, for example, would result in fuel savings equivalent to 250,000 barrels per day. Similarly, a 3-degree reduction in thermostat settings if effected nationwide would save the equivalent of 550,000 barrels a day. The committee fully expects that these rationing and conservation pro-

grams will be designed and implemented after proper deliberation in a manner that is neither arbitrary nor capricious.

Significant savings can also be realized by measures not specifically required by this section. For example, the phasing out of nonreturnable beer and soft drink beverage containers, as required in Oregon, has proved to result in considerable energy savings. Further, the Federal Government could offer a number of examples of the energy conservation ethic, by curtailing use of large limousines, encouraging the use of carpools, eliminating unnecessary travel, and other wasteful practices.

Subsection 203(c) requires State and major metropolitan areas to develop within 10 weeks after enactment of this Act emergency energy conservation and contingency programs to implement the Federal program described in subsections 203 (a) and (b). These plans must be approved by the President. For the purposes of this section, major metropolitan governments are understood to be those cities listed by the Bureau of Census as standard metropolitan statistical areas (SMSA) with populations of 200,000 or more. It was not the intent of the committee to unduly burden all local governments with the need to develop a plan pursuant to this section. However, in the view of the committee, major metropolitan areas such as New York City or Baltimore would require very different measures for reducing energy consumption from the rest of either New York State or Maryland. Similarly, the differing needs and requirements of various communities according to their economic bases and population densities require that, insofar as possible, programs be tailored to best meet regional and community needs.

Subsection 203(d) provides that if a State or major metropolitan government fails to design and implement the programs required under Subsection 203(c), the Federal Government shall continue to implement the Federal program in that State or major metropolitan area. This provision assures that, regardless of State inaction, the required energy conservation plan will be in effect for all areas of the country.

Subsection 203(e) states that the President shall direct implementation of the contingency programs as needed to achieve the purposes of the Act. This subsection is an explicit directive to the President, to assure that the emergency programs required in this section are implemented without delay, in the manner expressed in this Act. Discretionary authority was not deemed satisfactory by the committee in the face of the current emergency situation.

Section 203(f) provides, subject to certain exceptions, that the act confers no authority on the President to regulate or allocate natural gas not otherwise subject to the jurisdiction of the Federal Power Commission. Such "intrastate" gas is not now subject to regulation or allocation by the Federal Government, but, instead, is subject to State regulatory authority. Although the act retains this basic, long-established principle, the act nevertheless authorizes the President to require certain conservation measures by users of intrastate natural gas. For instance, users of intrastate natural gas may, under the act, be restricted in their use of such gas for decorative lighting. In addition, such users are not excluded from the provisions of section 204(a),

which requires certain users of petroleum or natural gas to convert to coal as their primary energy source. It similarly is not the intention of the committee to exclude users of intrastate gas from such conservation measures mandated by the President as restriction on the use of such fuel for nonessential uses such as lighted advertising and recreational activities, limitations on operating hours of commercial establishments and public services, such as schools, and temperature restrictions in office and public buildings, including wholesale and retail business establishments. In addition, State regulatory bodies having jurisdiction over intrastate natural gas are required to cooperate with the President to achieve the conservation objectives of the act.

Natural gas that is subject to the jurisdiction of the Federal Power Commission—"interstate" natural gas—will be fully subject to regulation and allocation under the act. The President may leave such regulation and allocation exclusively to the Federal Power Commission for implementation under existing law and procedure, he may delegate his authority in whole or part to the Federal Power Commission, or he may assume total jurisdiction over such natural gas to the full extent provided in the act for other fuels. In the event the President delegates his authority to the Federal Power Commission, the Commission will be exempted from the provisions of the Administrative Procedure Act to the limited extent provided in section 309.

Section 204. Federal action for fuel conservation

This section describes certain Federal energy conservation measures to be taken in addition to measures undertaken by State or local governments under the rationing and conservation programs required in section 203.

Subsection 204(a) authorizes the President to require—after weighing appropriate environmental and health considerations—conversion of powerplants and industrial facilities now burning oil and gas, but which have a ready capability to burn coal or other fuel, subject to the availability of such other fuels. To minimize the costs of conversion, plants mandated to switch fuels pursuant to this subsection may be allowed to use the mandated fuel for at least one year, subject to the variance procedures set forth in the Clean Air Act, as amended. Fossil-fueled electric generating plants now in the planning process would also be required to be designed and constructed so as to have the rapid capability of converting from oil or gas to other fuels. Such dual capacity is commonly required in many other countries, but might be limited to plants of a certain minimum size and expected useful life.

The committee does not intend by this subsection to impose an undue burden on electric generating stations or heavy industrial users of natural gas or oil. The committee would expect, for example, that small plants, peaking power plants, or plants nearing obsolescence would not be required to convert.

It has come to the attention of the committee, however, that there are a number of such facilities which have both ready supplies of coal or other fuels and the capability to burn such fuels. Immediate conversion of such plants, according to testimony received by the committee, would result in significant savings of petroleum and petroleum products within 1 month. Although precise figures are not available,

estimates of such savings reach as high as 298,000 barrels per day in 3 weeks.

The committee also fully expects that any mandate for fuel switching will be given only after full consideration has been given to the environmental and health impacts of such conversion.

Section 204(b)(1). This section empowers independent regulatory agencies—the Civil Aeronautics Board, the Interstate Commerce Commission, and the Federal Maritime Commission—to adjust existing regulations for carriers within their jurisdiction, to conserve fuel during the energy emergency. Such adjustments include shortening distances traveled by changing routings, altering points served, and other changes in scheduling, and must be consistent with continuation of service for public convenience and necessity. This subsection also allows revisions in rate schedules to reflect adjustments in routing, scheduling, and so forth. Such rate adjustments are necessary to prevent windfall profits arising from the energy emergency on the part of carriers, or to reflect increased costs as a result of other mandated adjustments.

The committee intended by this provision to allow reasonable measures to be taken for emergency fuel conservation, but to preclude carriers from using the opportunity so presented to drop nonprofitable or less profitable routes, points served, or service areas, in a manner inconsistent with the public interest. The committee also clearly intended that no adjustment of carrier service under this section be allowed to alter the classification of any carrier, or to allow entry of new carriers into rationalized trade at the expense of carriers affected by the adjustments.

The purpose of empowering the agencies directly to make adjustments in existing regulations, rather than have such power be vested with the President, was to preserve the statutory independence of these regulatory commissions.

Subsection 204(b)(2) requires the agencies to report within 15 days to the appropriate congressional committee (the House Committee on Interstate and Foreign Commerce and the Senate Committee on Commerce) the need for additional authority beyond that provided in paragraph 204(b)(2) to conserve fuel during the energy emergency. The reports are to identify with specificity the type of regulatory authority needed, the reasons why such authority is needed, the overall impact on fuel conservation of such authority, the probable affect on the public convenience and necessity of such authority, and the competitive impact, if any, of such authority. The reports should also include recommendations with respect to changes in fuel allocation programs which, in the opinion of the agencies, is necessary to conserve fuel while providing for the public convenience and necessity.

The committee intends that such reports should outline the need for all extraordinary authority, including that granted under paragraph 204(b)(1) which must be subject to the oversight power of the Congress to insure that such authority is used only to meet the energy needs of the Nation and not to expand arbitrarily any agency's regulatory jurisdiction.

Subsection 204(b)(1) makes it possible for the agencies to immediately institute emergency regulations. Subsection 204(b)(2)

permits the Congress to review in 15 days the objections and the reasons therefore and to reverse any action that oversteps the authority intended for the agencies by the Congress. In addition, it may be necessary to expand the regulatory authority of the agencies and, if so, Congress can take additional action to provide for maximum conservation of energy consistent with the national transportation policy and public necessity and convenience.

The authority to review and, if necessary, to expand the authority of regulatory agencies beyond that given in paragraph 204(b)(4) is particularly necessary in light of the dangers involved in expanding agency authority without full justification for such expansion. Therefore, those committees most concerned with the transportation regulatory structure should be permitted to review agency action taken under these paragraphs which falls within their particular area of expertise.

Subsection 204(b)(3) states that the regulatory agencies affected by this section may, in carrying out the purposes of this section, consult with other Federal agencies having expertise or jurisdiction over the modes of transportation involved.

Subsection 204(c) requires the development and implementation of Federal measures to provide incentives to the use of public transportation, including priority rationing of fuel for mass transit systems, Federal subsidies for fares and operating costs. While it is understood that logistic constraints will undoubtedly preclude any great acceleration in the rate of procurement of vehicles, the expenditure of increased funds for maintenance and repair parts by mass transit companies will permit the more productive employment of existing equipment. In addition, an increased Federal share of expenditures from the highway trust fund for the purchase of buses and rolling stock.

In the course of considering S. 2589, it has come to the committee's attention that the most significant savings in petroleum product consumption—equivalent to perhaps more than 1 million barrels per day of crude oil—can be achieved by reducing private automobile use. Coupled with gasoline rationing, increased use of mass transit is essential to any serious energy conservation program. Successful experience has already been reported in Seattle, Wash., that subsidized free fares on mass transit will significantly increase ridership. Such Federal subsidies to mass transit would also have the additional benefit of reducing pollution and traffic congestion as well as reducing fuel consumption.

Section 204(d) requires submission by the Department of Transportation of recommendation for changes in Federal and State policies relating to motor vehicles in the interstate highway system. The purpose of this requirement is to identify changes in present policies which could result in significant savings of fuel.

Subsection 204(d) requires all Federal agencies to survey all activities in their jurisdiction within thirty days of enactment of this act, and to recommend to Congress and the President, specific proposals to increase energy supply or reduce energy demand.

Section 205. Air quality requirements

This section states that if a Presidential order to change fuels issued pursuant to section 204(a) results in a violation of air quality

standards, a variance may be granted to the affected plant in accordance with the provisions of the Clean Air Act, as amended.

In drafting this section of the bill, the committee was concerned with balancing emergency energy needs with maximum environmental protection. However, problems in distributing available low-sulphur fuels may result in the need for temporary variances from State implementation plans such as are now being granted by the Environmental Protection Agency in certain special circumstances. The Senate Committee on Public Works, in accordance with the emergency conditions now before us, are preparing for the Senate recommended amendments to the Clean Air Act to provide for limited, case-by-case emergency variances from standards promulgated under the Clean Air Act. In light of this action by the Senate Committee on Public Works, the committee, under this section, adopts by reference the new amendments to the Clean Air Act to accomplish the purposes of Section 204(a).

The new amendment referenced here is that amendment under consideration by the Senate Public Works Committee at the time of the printing of this report.

The understanding of the members of this committee is that their agreeing to delete provisions of the bill which would have amended the Clean Air Act was based upon a commitment from members of the Senate Public Works Committee that they would proceed expeditiously to report out an appropriate amendment to the Clean Air Act.

Section 206. Environmental impact statements

This section states that no major action taken under this act will be deemed a major Federal action requiring an environmental impact statement until one year after initiation of such action. However, for any major action taken under this act, an environmental evaluation with analysis equivalent to that required for an environmental impact statement shall be required, within 60 days after initiation of such action, the greatest extent practicable within that time constraint. Any action taken under S. 2589, which action will last more than 1 year will be subject to the full provisions of the National Environmental Policy Act.

By suspending the requirements for a full environmental impact statement, this section permits rapid action on the part of the executive branch to meet the current energy emergency. The administration felt that such a provision was crucial to the rapid and flexible implementation of emergency energy conservation measures, since considerable time is required to prepare an environmental impact statement as required by Section 102(2)(C) of the National Environmental Policy Act. However, in order to provide for consideration of the environmental impact of actions taken pursuant to this act, this section does require an environmental evaluation to be made of major actions. The committee fully expects that such environmental evaluations will provide an appropriate and full assessment of the environmental impacts of major actions taken pursuant to the act. The committee does not intend that emergency time constraints be used as an opportunity to ignore the environmental impacts of actions taken under this Act, or to shirk the responsibilities for assessing environmental impacts as intended by the National Environmental Policy Act. While this section

provides for a variance as to the form which such assessment takes, the committee expects and intends that the substance of such an evaluation will be fully provided for each major Federal action taken under S. 2589.

Section 207. Federal actions to increase available domestic petroleum supplies

This section authorizes the President to undertake a number of measures to increase domestic supplies of petroleum.

Subsection 207(a) authorizes the President to require on a mandatory basis that existing domestic oil fields produce at their maximum efficient rate. Maximum efficient rate is a level of production fixed by State agency regulation at which it is estimated that production can be sustained without detriment to the ultimate recovery.

Subsection 207(b) authorizes the President to require certain designated oilfields, on lands in which there is a Federal interest, to produce in excess of their maximum efficient rate. Such fields shall be those in which production in excess of their currently assigned maximum efficient rate would not result in excessive risk of losses of recovery.

According to the National Petroleum Council there are at least five large Texas fields on private lands, and certain oil fields on public lands in which production over MER could be sustained for periods of 90 to 180 days without damage to ultimate recovery. If production above MER were authorized on both Federal and State lands, such production could result in additional supplies of 292,000 barrels per day (b/d) deliverable to refineries within 90 days and 331,000 b/d within 180 days. However, in its deliberations, the committee decided to limit the coverage of this section to Federal lands only. Estimates of the 90 day production to be realized by producing above MER only on Federal lands are about 22,000 b/d.

The members recognized that should the President exercise the authority provided in section 207(b), a "taking of property" conceivably could result. If such action in fact constituted a constitutional "taking" of private property the injured party or parties would of course, be entitled to just compensation as provided for in the U.S. Constitution. Accordingly, members felt that should the President choose to exercise the authority conferred in section 207(b), to achieve the purpose of this act, he should precede such action by an examination of the possible legal liabilities involved.

Section 207(c) authorizes the President to require adjustment of product mix in domestic refinery operations, in accordance with national needs and priorities. Although refineries differ in the degree of their individual mechanical flexibility to alter refinery balances, testimony received by the committee indicates that there is considerable opportunity to increase production of needed distillates of gasoline at the expense of other products.

In the past 2 years there has been considerable evidence, for example, that refinery balances have been adjusted according to "profitability" rather than "national needs," resulting in heating oil shortages when gasoline prices were high.

Subsection 207(d) authorizes the President to require production from the Naval Petroleum Reserves, whenever the availability of petroleum products to the Armed Forces requires priority allocation

of such products to the Department of Defense under the terms of the Defense Production Act of 1950. The Defense Production Act provides that when national defense requires, the Department of Defense may purchase supplies on a priority basis, and that existing contracts may be abrogated to make needed supplies available to the Armed Forces.

The Naval Petroleum Reserves are intended for the use of the Nation's Armed Forces when required for national defense. In the view of the committee the invocation of the Defense Production Act to grant priority to the Armed Forces in the allocation of domestic petroleum is a priori evidence of a need to produce from the Reserves for purposes of national defense.

There are problems posed by the opening of the naval petroleum reserves for production, particularly as concerns the reserve with the greatest short term potential, that at Elk Hills, Calif.

Representatives of the White House made available to counsel to this committee the following background statement concerning this provision of the bill and their general support:

Competitive production of the Elk Hills field is not now occurring because the two land owners in the field, Navy and Standard of California, have agreed to keep it shut in and to share ultimate national defense production. That agreement is the unit plan contract, entered into in June 1944.

The law by which Congress authorized Navy to enter into the unit plan contract (act of June 4, 1920, as amended; 10 U.S.C. § 7421-38) specifies several requirements for the contract (10 U.S.C. § 7426) and states that production of Elk Hills will be allowed only for "national defense" (10 U.S.C. § 7422). The entire act of June 4, 1920, as amended, is incorporated in the unit plan contract by virtue of recital (8) thereof, which specifically states the parties understanding that production must be preceded by a joint resolution of Congress under the act. Thus, production, even if ordered by joint resolution of Congress, would arguably be in breach of the unit plan contract if it were not needed for national defense (i.e., not undertaken for the purpose specified by existing law).

Voidance of the unit plan contract as a result of its breach by the Government would allow Standard to drill and produce its Elk Hills lands at full commercial rates.

Offset production on a massive scale would have to be engaged in by Navy to avoid loss of oil to Standard lands. The combination of commercial production by Standard and offset production by Navy would effectively destroy Elk Hills as a reserve. Additionally, Standard's dominant position in the California oil industry would probably permit it to compete more effectively than Navy could in an all-out production situation and thereby capture federal oil initially which would be irretrievably (and legally) lost.

Loss in money and money's worth to the United States would be at least \$24 million as soon as the unit plan contract is voided. The contract calls for balancing costs and receipts of oil as between Navy and Standard ultimately

(when the field is opened for national defense) and not currently (when the field is in a shut-in, maintenance status). Navy has paid currently some \$10.5 million in costs which Standard would have to pick up, assuming the continued effectiveness of the contract. Similarly, Standard has received currently some \$13.5 million worth of oil which the contract would require it to return to Navy ultimately.

Loss of facilities installed on Standard lands at Navy expense would occur upon termination of the unit plan contract.

Other untoward consequences to the United States upon voidance of the unit plan contract will undoubtedly occur but have not yet been fully assessed. An example is the possibility of tax windfalls to Standard.

The committee agrees with a statement from a communication from the President of the AFL-CIO concerning the naval petroleum reserves:

In authorizing increased production of oil and gas from the naval petroleum reserves, the Congress must guarantee that these reserves, which are the property of the American people is not endangered, and that the reserves could be used to ease the people's plight in this emergency and not as an excuse for exploitation.

Subsection 207(c) provides for authority for acceleration of oil and gas leasing programs, both onshore and offshore, and for geothermal leasing. Such an accelerated program will be subject to the provisions of all existing laws, including all of the National Environmental Policy Act.

The committee intended in this subsection, to prod the administration into accelerating the leasing programs which have been authorized for some time by the Congress, but which have not been acted upon. While the committee realizes that such programs represent a longer term measure to increase domestic supply, they are nonetheless important. However, because of their longer term timeframe, such programs must not be exempted from compliance with existing laws or with section 102(2) (C) of the National Environmental Policy Act.

Sec. 208. Adverse Impact on Employment

Section 208 of the bill requires the President, in implementing this act, to consider to the fullest extent practicable, any adverse impact on employment. It requires the full cooperation of Government agencies under their existing authorities to minimize such adverse impact.

Action taken under the National Energy Emergency Act results in a new reduction of employment in particular sectors of the economy. It is not possible to predict either the magnitude, or the industrial or geographic concentration of this disemployment. Without adequate information concerning employment impact, it will be extremely difficult to develop a specific strategy to assist those affected. Because of the great uncertainty over the impact, it is essential that the administration monitor the developments and report to Congress as to the effect of the emergency program in such areas. The committee would hope that the President report to the Congress on a regular basis concerning the employment impact of the legislation, including the ade-

quacy of existing programs such as unemployment insurance in meeting the needs of those adversely affected.

Title III.—Administration and Authorization

Section 301.—Congressional approval

This section requires that the President submit his proposed contingency program to Congress within two weeks after enactment. On receipt Congress has 15 days, 7 of which must be in legislative session, within which to approve the proposal or to specifically disapprove it, in whole or in part, by concurrent resolution.

Because of the broad scope of the additional authority granted the executive branch under this act, the committee believes that it is necessary for the Congress to review the manner in which that authority is to be exercised. To insure that this congressional review is carried on in the most constructive and expeditious manner possible, the Congress is required to conduct its review within a limited and specified time frame.

Section 302.—Local administration

This section authorizes the President to employ State and local offices to implement the rationing and conservation program provided for in section 203. The intent of this section is to permit the optimum use of existing agencies at the State and local level to facilitate program implementation, and to employ the special knowledge of local, State, and regional situations and problems which such offices possess. In addition, State and local agencies engaged in the operation of such conservation and rationing programs may perform such other additional programs as the State legislatures may direct, subject to Presidential approval. By permitting State agencies to function in a dual capacity, needless proliferation of bureaucracies at the State level is avoided.

Section 303. Economic incentives

Public support for the programs of energy conservation and increased energy production is essential if the Nation is to attain the goals set forth in this Act. This section directs the Secretary of the Treasury and the Director of the Cost of Living Council to provide the Congress with recommended economic incentives to encourage both individuals and industry to subscribe to the purposes of the act. The section also requires analysis of actions needed to effect the internalization of the full cost of producing incremental energy supplies.

Section 304. State laws

This act or resultant programs shall not supersede any State law unless such State law or program is inconsistent with the act.

Section 305. Federal facilities

This section provides for the use of excess government facilities or equipment by private industries or public entities, for the duration of the emergency. Arrangements for such use must be made at fair market prices and only if such facilities or equipment are needed, otherwise unavailable, and not required by the Federal Government.

The purpose of this provision is to allow, for example, the temporary use by private corporations of tankers owned or operated by the Armed Forces for shipment of oil.

Section 306. Sanctions

Provision is made for a \$5,000 fine for willful violation of programs implemented pursuant to the Act and for a civil penalty of \$2,500 per day per violation for any person in violation of the Act.

Section 307. Loans to homeowners and small businesses

In order to assist persons and firms in efforts to reduce their consumption of energy the Federal Housing Administration and Small Business Administration is authorized to grant low interest loans for use in modifications to structures which would reduce energy consumption for space heating of those structures. The purpose of this section is to encourage private individuals to conserve energy, by providing low interest loans for such improvements as increased insulation, storm windows, solar heating, etc.

Section 308. National Energy Emergency Advisory Committee

Section 308 establishes a National Energy Emergency Advisory Committee to advise the President on all phases of implementation of the act. Because of the all-encompassing impact of the energy crisis, this section requires broad representation of all interests including the energy industry, consumers, labor, agriculture, environmental groups, and State and local governments. It is intended that this advisory committee be in addition to any existing statutory advisory committees whose duties relate to actions which may be taken to implement this act. However, the actions of such committees, including those established under the Defense Production Act of 1970, will be reviewed and commented on by the advisory committee.

The advisory committee will, of course, be subject to the requirements of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. I) as are all Federal advisory committees.

Section 309. Administrative procedures

This section is needed to allow the Federal agencies to carry out the programs to be established under this act with sufficient expedition and flexibility. Subsection (a) is designed to waive the more time-consuming procedures of the Administrative Procedure Act, notably the requirements of adjudicatory hearings in 5 U.S.C. section 554, which could otherwise apply to actions taken under this act. Subsection (b) is designed to provide for substitute procedures, which the agencies may design for maximum efficiency and flexibility, to afford persons affected by measures taken under this act a fair opportunity to obtain either interpretations of agency rules or intra-agency review of any actions taken adversely to them. These procedures will be adopted by any agency authorized by the President to issue rules, regulations, or orders under this act. This may include regulatory agencies, such as the Federal Power Commission. Subsection (c) provides that formal hearings shall be held wherever possible when rights of any parties may be affected by such actions. This section will permit the use of the somewhat truncated administrative procedures necessary to cope with the emergency conditions giving rise to this

act, while at the same time meeting the constitutional requirements of procedural due process.

Section 310. Judicial review

This section vests the district courts with jurisdiction over most of the litigation which will arise under this act.

This section does not apply to actions taken under this act by the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Power Commission, or the Federal Maritime Commission. Those regulatory agencies have specific judicial review provisions in their organic acts, which ought to apply, for the sake of uniformity, to such actions as the agencies might take under the authority of this act or of both this act and their organic acts. This section is intended to apply, rather, to litigation arising from or generated by the activities of the Department of the Interior, the Environmental Protection Agency, and other executive agencies with delegated responsibilities under this act.

There are two important exceptions to the jurisdiction of the district courts over litigation arising under this act. First, national programs required by this act and the regulations establishing such national programs may be challenged only in the United States Court of Appeals for the District of Columbia within 30 days of promulgation of the regulations. This means that programs, such as, for example, the Mandatory Allocation Program for Middle Distillate Fuels, and the regulations setting up such programs could only be reviewed for their overall legality and constitutionality in this Court of Appeals. This centralization of judicial review is required in the interests of expedition and efficiency, in order that legal questions relating to these emergency programs, which Congress is requiring, be adjudicated without delay.

The other exception to the district courts' jurisdiction is for programs and regulations which, although not of national applicability, are intended to apply generally to a certain area, such as a State, or several States or portions thereof. Requiring challenges to such programs to be brought initially in the Courts of Appeals can prevent inconsistent adjudications, uncertainty, and delay.

Section 311. Materials allocation

Section 311 authorizes the President to allocate supplies of materials and equipment associated with the production of energy supplies to the extent necessary to maintain and increase the production of fuels.

Section 312. Grants to States

This section would authorize grants to States to offset costs incurred by State governments in the implementation of plans and programs directed or authorized by this act or by the Emergency Petroleum Allocation Act of 1973. In the view of the committee the problems posed by fuel shortages are national in scope and the measures to deal with such shortages have largely been mandated by Congress. In the view of the committee, then, Federal support of State governments in their efforts to alleviate a nationwide energy emergency is clearly in order.

Section 313. Study of health effects of sulfur oxide emission

To overcome the energy loss caused by the petroleum shortfall, increased use of coal will be necessary. The health effects of sulfur oxide emissions from the burning of coal are not now fully known or understood. This section would direct, and authorize funding for, a study of the effects of sulfur oxide emissions among exposed populations. The results of this study will be of value in the drafting of future legislation and programs in the energy field to permit optimum use of coal with minimum adverse effect on the public health and welfare.

Section 314. Authorizations

This section authorizes the appropriation of such funds as are needed for the purposes of the bill.

Section 315. Separability

Section 315 is a separability clause.

VII. TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes of the committee during consideration of S. 2589:

1. During the committee's consideration of the National Energy Emergency Act of 1973 many voice votes and formal roll call votes were taken on amendments to the bill. These votes were taken in open public session and, because they were previously announced by the Committee in accord with the provisions of section 133(b), it is not necessary that they be tabulated in the committee report.

2. S. 2589 was ordered favorably reported to the Senate on a roll call vote of 8 yeas, and one nay. The vote was as follows:

Jackson—Yea
Metcalf—Yea
Johnston—Yea
Abourezk—Yea
Haskell—Yea

Fannin—Yea
Hansen—Yea
Hatfield—Nay
Buckley—Present
Bartlett—Yea

VIII. COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-150, 91st Congress) the committee provides the following estimate of cost:

For the study provided for in section 313, to determine the health effects of sulfur oxide emissions, \$5 million.

Other section of the bill provides appropriation authorizations but no estimates as to cost were provided to the committee by the administration.

IX. EXECUTIVE COMMUNICATIONS

DEPARTMENT OF STATE,
Washington, D.C.

STATEMENT BY JULIUS L. KATZ, DEPUTY ASSISTANT SECRETARY OF
STATE FOR INTERNATIONAL RESOURCES AND FOOD POLICY

Mr. Chairman, I am pleased to have this opportunity to appear before your committee in support of S. 2589, the National Emergency Petroleum Act of 1973.

On October 17 the Organization of Arab Petroleum Exporting Countries (OAPEC) announced the adoption of a boycott of oil in support of the Arab War against Israel. OAPEC members agreed at that time to reduce overall production by 10%, to embargo all exports to the United States, and to reward "friendly" nations with continuing supplies of oil. The OAPEC boycott has now been expanded to the point where overall production by OAPEC members has been reduced 25 percent, with an additional 5 percent scheduled for the month of December.

In addition to the U.S., the Netherlands has been singled out for full embargo treatment, but reports as to other countries are contradictory. Certain other countries, including the United Kingdom, France, Spain and Brazil, have been designated as "preferred" countries and as such will be permitted to receive Arab oil at a level equal to their Arab oil purchases during the first nine months of 1973. Most other nations, including such major importing countries as Japan, West Germany, and Italy, are classified as "non-preferred" and will have to share *pro rata* any oil remaining from reduced production after the preferred customers have been satisfied. Thus, the impact on this latter group of countries will increase should the boycott continue with progressively larger reductions in production month-by-month.

As a result of the 25% limitation of production now in effect, the availability of oil in the world will be reduced by more than 5 million barrels per day. Should another 5% reduction come into effect in December, the decrease in world availabilities could exceed 6 million barrels per day.

Prior to the imposition of the Arab boycott, the United States was importing about 6.3 million barrels per day, of which the Arab producers furnished 1.7 million in direct shipments of crude oil and products refined from Arab oil in third countries. However, even before the cut off of Arab oil most authorities had counted on importing about 500,000-750,000 additional barrels per day of heating oil from European refineries to cover the additional demands of the 1973-74 heating season. These European supplies will in large part now be lost as a result of the Arab embargo. Thus our total oil deficit during the winter months could be between 2-3 million barrels per day, or 10-17% of our consumption.

Mr. Chairman, in previous testimony before your Committee and other Committees of the Congress, representatives of the State Department have called attention to the dangers to our national security of over-dependence on imports from potentially insecure sources. The crisis now presented by the OAPEC boycott dramatizes these dangers and emphasizes the need to proceed urgently to carry out "Project Independence" proposed by the President.

Of even greater urgency, however, in the need to provide the authorities contained in the "National Emergency Petroleum Act of 1973" to deal with the present situation affecting our energy supplies. Representatives of other agencies will address themselves to the provisions of the bill pertaining to our domestic energy supplies. I would like, however, to comment on Section 202(b) of S. 2589 which would permit *inter alia* the negotiation of international energy arrangements, either bilaterally or multilaterally within the context of the Organization for Economic Cooperation and Development (OECD) or other international organizations.

Although we do not presently contemplate the negotiation of such agreements, it is conceivable that emergency sharing arrangements might be concluded in the future. Section 202(b) would provide the authority to carry out such agreements, should they serve the interests of the United States. The existence of this authority could serve to encourage agreement on joint contingency planning by consuming countries to deal with emergencies of the kind we are facing at this time.

Mr. Chairman, the Department of State strongly endorses the approach taken by S. 2589 to deal with the present and possibly future energy emergencies. The prompt and constructive manner with which you and your Committee have addressed this vitally needed legislation is a heartening demonstration of the ability of our nation to respond to challenge. We look forward to working with your Committee on the longer term aspects of our energy policy which are equally vital to our national security and well-being.

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C., November 8, 1973.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: The Atomic Energy Commission is pleased to reply to your request for comments on S. 2589 [Committee Print No. 1, November 6, 1973], a bill "[t]o declare by congressional action a national energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to initiate the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes" (the "National Emergency Petroleum Act of 1973").

The Atomic Energy Commission supports this bill because we believe it will help the Nation cope with the severe energy shortages which we face. This bill, and the President's proposed energy reorganization bills (H.R. 9090 and S. 2135) and increased funding for energy research and development, will all serve not only to deal with immediate energy problems, but to provide the basis for long-term solutions.

We also believe that the addition to the bill of the following provision would help decrease the time necessary to license the operation of a nuclear power reactor and thus make increased nuclear power available more quickly:

"In any proceeding under the Atomic Energy Act of 1954, as amended, for which a hearing is required to grant or amend any operating license for a nuclear power reactor, the Commission may issue a temporary operating license under the authority of this Act in advance of the conduct of such hearing; provided, however, that in all other respects the requirements of the Atomic Energy Act of 1954, as amended, including, but not limited to, matters of public health and safety, shall be met. No such temporary operating license may be issued for a period to exceed eighteen (18) months."

The bill states a congressional declaration that current and imminent fuel shortages have created an energy emergency, and authorizes the President to implement emergency fuel shortage contingency programs as provided for in Title II. The President would be required, not later than fifteen days after the date of enactment of the bill, to promulgate and implement a national emergency energy rationing and conservation program. Within two weeks of the date of the bill's enactment, the President would be required to promulgate requirements for emergency energy conservation and contingency programs to be developed by each State and major metropolitan government. The President would also be directed to (1) require that certain electrical power plants convert to coal, (2) authorize certain agencies which regulate carriers to adjust a carrier's operating authority to conserve fuel, and (3) develop and implement federally sponsored incentives for the use of public transportation.

For certain purposes, in certain situations, the Administrator of the Environmental Protection Agency at the direction of the President would be authorized to waive specific requirements of State implementation plans to grant temporary variances from applicable emission standards for air pollutants established pursuant to Federal or State statutes. No major action taken under the bill which would be in effect for less than six months would be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. However, certain environmental evaluation procedures for such actions are provided.

The President would also be directed to initiate a number of measures to increase available domestic petroleum supplies. The Secretary of the Treasury would be authorized and directed to study and recommend to the Congress specific incentives to increase energy supply, reduce demand, and to encourage compliance with requirements of programs implemented pursuant to the bill.

Other agencies will be more directly affected by specific provisions of the bill (e.g., the Environmental Protection Agency and the agencies specified in Section 204 which regulate carriers), and should thus be better able to offer more detailed comments regarding such provisions.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DIXY LEE RAY,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, D.C., November 6, 1973.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request at this morning's hearing before the Senate Interior Committee, I am forwarding to you three suggested amendments to the National Emergency Petroleum Act of 1973 (second Committee Print) which the Council believes desirable to improve the environmental protection provisions of the Act.

We have submitted 20 additional copies to the Committee staff for use in tomorrow morning's mark-up session.

Sincerely,

JOHN BUSTERUD,
Acting Chairman.

PROPOSED AMENDMENT 1

Add to the findings (Section 101):

As the population increases and the demands for a better living environment increase, the American people will require increasing quantities of clean energy supplies.

Add to the purposes (Section 102):

(g) Insure that measures taken to meet existing emergencies are consistent, as nearly as possible, with existing national commitments to protect and improve the environment in which we live.

Rationale: These provisions were included in materials supplied by the Administration and are important to assure that national environmental goals are altered only to the extent necessary to meet the emergency provisions of the Act. There is no similar language in S. 2589.

PROPOSED AMENDMENT 2

Amend section 101(a) of the Act as follows:

Shortages of crude oil, residual fuel oil, and refined petroleum products caused by inadequate domestic production, and the unavailability of imports sufficient to satisfy domestic demand, now exist.

Rationale: While environmental constraints have been cited by some as a problem in relation to long-term energy needs, they have not been a significant factor in the development of the current shortages. (If it is felt necessary to refer to environmental constraints, then such a reference should reflect the fact that such constraints have been a necessary result of excessive usage of hydrocarbon fuels, resulting in environmental pollution.)

PROPOSED AMENDMENT 3

Substitute for section 206 the following:

Section 206. Relation to Environmental Requirements.

Section 206. Relation to Environmental Requirements:

(1) No action taken under this Act shall, for a period of one year after the initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). However, prior to taking any action if practicable or in any event within 60 days after taking or initiating any action that has potentially significant impact on the environment, an environmental evaluation, with analysis equivalent to that required under Section 102(2)(c) of the National Environmental Policy Act to the extent practicable within the time constraints, shall be prepared and circulated to appropriate Federal, state and local government agencies and to the public; provided, however, that such an environmental evaluation shall not be required where the action in question has been preceded by preparation and issuance of an environmental impact statement under Section 102(2)(c) of NEPA. If any such action is to be continued beyond one year from the date of its initiation, the requirements of the National Environmental Policy Act shall apply in full to any such action to which they would otherwise apply.

Rationale: This is the language submitted by the Administration in earlier materials. We endorse and reassert this Administration position, particularly in regard to the one-year period during which the special environmental review provisions would apply. Such a one-year period conforms to the period of declared emergency in S. 2589.

AMENDMENTS TO S. 2589 PROPOSED BY THE DEPARTMENT
OF TRANSPORTATION

(Representatives at November 9 Mark-up Session, Deputy Assistant Secretary Erwin P. Halpern, John Oberdorfer, Office of the General Counsel)

NOVEMBER 9, 1973.

U.S. DEPARTMENT OF TRANSPORTATION

Amendments to "The National Emergency Petroleum Act of 1973" (S. 2589, Comm. Print No. 2):

Page 7 line 18: After the words "review and" insert ", after consulting with the Secretary of Transportation,".

Explanation

Section 204 gives emergency powers to the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission. The exercise of this emergency authority should be closely coordinated with the Executive Branch, and particularly the Secretary of Transportation. This proposed amendment would accomplish this objective by requiring the three regulatory agencies to consult with the Secretary before exercising their emergency powers.

U.S. DEPARTMENT OF TRANSPORTATION

Amendments to "The National Emergency Petroleum Act of 1973" (S. 2589, Comm. Print No. 2):

Page 8, lines 7-10: Strike all of the last sentence of section 204(b).

Explanation

The last sentence in section 204(b) would authorize the Interstate Commerce Commission to enlarge, modify or remove various categories of exempt carriage from the Interstate Commerce Act. While there might be some energy conservation gains from extending the Commission's authority in this way, this extension, in our view, would cause offsetting losses in transportation efficiency. The Administration has for some years recommended lessened economic regulation in the surface transportation area, and we do not think the present energy shortage justifies this particular move in the opposite direction.

U.S. DEPARTMENT OF TRANSPORTATION

Amendments to "The National Emergency Petroleum Act of 1973" (S. 2589, Comm. Print No. 2):

Page 8: At line 13, delete "and"; strike all of line 14 and on line 15 the words "penses incurred because of increased service."

Explanation

We oppose the provision in section 204(c) that would require Federal operating subsidies for mass transportation. This Administration has continually opposed establishing a categorical grant program of Federal operating subsidies because such a program does not confront the real causes of declining transit usage, and requires extensive Federal involvement in local transit decisions (e.g., the negotiation of labor contracts). While we recognize that there may be increased costs from increased transit during this emergency, there are measures which communities might take to ameliorate this problem. One such measure is to promote staggered work hours which would enable the transit operators to substantially reduce their operating expenses by making more extensive use of the existing fleet.

U.S. DEPARTMENT OF TRANSPORTATION

Amendments to "The National Emergency Petroleum Act of 1973" (S. 2589, Comm. Print No. 2):

Page 6, line 8: After "plans", insert ", including reductions in speed limits and provisions for increased usage of car pools".

Page 6, line 15: Delete "and reductions in speed limits." and change the semicolon after "establishments" to a period.

Explanation

This amendment identifies increased use of car pools and reduced speed limits as elements of transportation control plans. It also clarifies the bill by moving reductions in speed limits into the general category of transportation control measures.

FEDERAL MARITIME COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., November 9, 1973.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Federal Maritime Commission on S. 2589, the National Emergency Petroleum Act of 1973.

This legislation would authorize the President to take specific actions designed to meet the growing energy shortages now facing this nation. I need not recite to this committee the continual occurrences on almost a daily basis pointing up the need for strong emergency measures to meet this increasing crisis. Our heavy dependence on oil imports, part of which is now being cut off because of the continuing conflicts in the Middle East—the announced intention of Canada to reduce oil supplies—the ever faster depletion of oil resources—all point up the need for action now. We are well aware of the fuel shortages which occurred last year in the middle western states and that the New England states are already faced with fuel shortages for this winter.

S. 2589 declares that the current and imminent fuel shortages have created an energy emergency. Title II authorizes the President to implement certain specified emergency contingency programs looking toward the rationing and conservation of scarce fuels. Section 204(b) with which this Commission is directly concerned provides that the President shall authorize the transportation regulatory agencies (the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission), in addition to their existing statutory authorities, on their own motion, or on the motion of any interested party, to review and adjust a carrier's operating authority as necessary to conserve fuel, while at the same time providing for the public convenience and necessity. This includes, but is not limited to, the authority to adjust the level of operations, altering points served, shortening distances traveled, and reviewing or adjusting rate schedules.

We understand that, notwithstanding that the Federal Maritime Commission's regulatory activities extend over operations of foreign flag vessels and foreign nationals, it is intended by the language in Section 204(b) to give to the FMC for the duration of the declared emergency fuel shortage (one year after date of enactment), the broad authorities specified, to economically regulate all carriers under the shipping statutes. This Commission believes some slight revision is essential in order to avoid future controversy and misunderstanding as to exactly what is intended by Section 204(b). Unlike the other transportation regulatory agencies, this Commission has no control over the routes and schedules of carriers subject to its jurisdiction, and but very little authority over their rates. We do not issue certificates of convenience and necessity nor do we license carriers serving our waterborne foreign and domestic offshore commerce. In short we have no control over entry or abandonment of service. Hence we do not grant "operating authorities." Since the additional powers provided

in Section 204(b) are limited to a carrier's existing "operating authority" the argument most certainly would be made that since no such authorities are granted by the FMC, no additional powers are conferred by S. 2589 on this Commission.

To avoid such contentions and in the interest of clarity we suggest that the words "operations and/or" be inserted between the words "carrier's" and "operating" in line 19 page 7 of Committee Print No. 2, dated November 8, 1973.

Section 204(b) provides that actions of an agency pursuant to the new authorities given to the transportation regulatory agencies, may be taken notwithstanding any other provision of law, after hearings in accordance with Section 553 of Title 5 of the United States Code. Section 553 covers the requirements of the Administrative Procedure Act pertaining to the "rulemaking" procedures of governmental agencies and is designed to permit participation in such rulemaking processes. Judicial review would be in accordance with Chapter 7 of Title 5 of the United States Code except that the agency action would be sustained only if supported by a preponderance of the evidence.

The Commission endorses S. 2589 amended in accordance with our foregoing suggestion.

Sincerely,

HELEN DELICH BENTLEY,
Chairman.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 8, 1973.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: You asked this Department to comment on S. 2589, the "National Emergency Petroleum Act of 1973."

This Department is in agreement with the general intent of this bill which would declare a national energy emergency and provide authority to develop and implement emergency energy plans.

There are many similarities between features of S. 2589 and the somewhat broader list of legislative authority requested of Congress as itemized by President Nixon in his address to the Nation on November 7. In view of the very short time, we are only able to provide the comments set out below.

There are some portions of S. 2589 that directly affect agriculture and cause us some concern. Some of our concerns are:

Section 101(g) makes a finding that "a primary governmental responsibility for developing and enforcing emergency fuel shortage contingency plans lies with the States and with the local governments of major metropolitan areas", and section 203(c) refers to "emergency energy conservation and contingency programs to be developed by each State and major metropolitan government." We suggest the language be more specific to insure that State plans are uniform so that all farmers within a State would operate under the same plan regardless of their location.

Section 204(b) would authorize additional powers to the Interstate Commerce Commission and Civil Aeronautics Board to adjust a carrier's operating authority in order to conserve fuel. Such authority includes "adjusting the level of operations, altering points served, shortening distances traveled, . . ." Because of the remoteness of and the distances between many rural localities, energy conservation may suggest termination of some carrier's authority into rural areas. We would urge the regulatory agencies be constrained in their actions to assure that the rural population is not unduly deprived of necessary services.

Further under section 204(b) we are concerned over the impact on the agricultural sector of modifying or removing various categories of exempt carriage under the Interstate Commerce Act. To substantially modify or remove various agricultural commodities from exempt carriage under the Interstate Commerce Act would likely have serious impact on the agricultural sector and on food prices.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Acting Secretary.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., November 9, 1973.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department concerning Committee Print No. 1 of S. 2589, a bill "To declare by congressional action a national energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to initiate the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes."

This proposed legislation would authorize and direct the President to declare, by Act of Congress, an energy emergency and within specified timeframes, to develop and implement fuel shortage contingency plans, require electrical powerplants to convert to coal, and authorize specified independent regulatory agencies to take various actions to conserve energy consumption. Further, it would provide existing stationary sources a temporary variance from adherence to applicable air emission standards. The bill would also provide for a restricted exemption for short term actions taken under the Act from the provisions of the National Environmental Policy Act, require increased oil production in domestic and national defense reserve oil fields, provide for a study and recommendation of economic incentives to encourage private industry and persons to comply with the Act, and impose specified penalties for violations of the Act.

The Department of Commerce concurs in the purposes of the Act and the need for enactment of legislation designed to vest emergency authority in the President to deal with an impending energy crisis. The Department recommends enactment of this legislation, if amended substantially to reflect the following comments.

In general, the bill does not give the President the flexibility required to adequately meet and resolve the myriad problem areas which an energy crisis of this nature will produce. The bill is basically deficient in that it requires and mandates specific actions within unreasonably short timeframes.

Section 101(g) of the bill states that the primary governmental responsibility for development and enforcement of contingency plans is with the State and local governments. The impact of this energy crisis will be borne by all sectors of our national economy regardless of "diversity of conditions, climate, and available fuel mix in different areas of the Nation." The primary governmental responsibility to meet this nationwide crisis should lie with the Federal Government working in conjunction with State governments.

Section 102(b) directs the President to exercise specific temporary authority. The President should be given the flexibility to utilize those emergency authorities which will enable the country to resolve the energy crisis. It may be that actual utilization of those specific authorities listed in the bill may not be needed. We recommend amendment of this subsection to reflect this need for flexibility to adjust to changing events and problem areas.

Section 102(f) directs the President and State and local governments to develop contingency plans which will reduce energy consumption by 10 percent within ten days and 25 percent within four weeks of interruption of normal supply. The language of this section is completely unrealistic in terms of time which will be required to develop and implement any contingency plan of the magnitude required to reach that level of reduced consumption. In addition, these specific percentage figures may be less than or more than what is actually required on the basis of the actual levels of domestic fuel production and fuel imports which would occur in the immediate future.

Section 202(c) provides that the declared emergency shall be for only one year from the date of enactment of the Act. We recommend that specific provisions be added which would authorize an extension of the Act on the basis of findings of necessity in light of existing factual situations at the end of this initial one year period, either by the President or by Congress.

Section 203 requires the President to promulgate and implement an energy conservation program within 15 days from the date of enactment of the Act. A specific requirement within this strict timeframe is inappropriate and, from a practical standpoint, may be impossible to comply with. This authority should be discretionary as opposed to mandatory. Throughout the remainder of Section 203 there are other specified timeframes within which designated action must be taken which we feel are unrealistic and unwarranted.

The title of Section 204 is couched in terms of mandatory Federal action for fuel conservation. Yet, the only "mandated" action is in Section 204(a) requiring the immediate conversion of electrical power-

plants to coal if they "have the ready capability and necessary plant equipment." Even though this requirement contains some flexibility we believe it would be preferable that this authority be discretionary as opposed to mandatory. The problem of powerplant conversion from one energy source to another is complex and must be dealt with on almost an individual plant basis.

Section 204(b) does not recognize the role which the Maritime Administration of this Department plays in international shipping and we suggest its inclusion.

We note that Section 204(c) provides for public transportation incentives "for the duration of the emergency fuel shortage" even though another provision of the bill limits the provisions and authorities granted under the Act to one year from the date of its enactment. This inconsistency should be clarified.

Section 205, regarding variances from the Clear Air Act, is specifically limited to the purposes of Section 204(a) which applies only to conversion of electrical powerplants from oil to coal. Industrial and business sectors of the country currently utilize 57% of the total national energy resources. It may be absolutely imperative to exempt other stationary sources from the provisions of the Clean Air Act as the actual impact of the reduction in energy resource supplies is determined. This exemption will be necessary to avoid major disruption to the Nation's economy and to minimize recessionary trends associated with curtailment in production capacity due to lack of fuel supplies.

Section 206 only exempts major Federal actions of less than six months duration from the provisions of the National Environmental Policy Act. Those major Federal actions of more than six months duration are fully subject to the substantive and procedural requirements of NEPA. We believe this provision should be modified in light of the emergency nature of the legislation and the reality that significant measures which must be taken to meet the energy crisis could be prevented through protracted litigation and necessity for adherence to impact statement requirements. This could result in major delays in implementation of programs which, to be effective, should be begun immediately and which may have to remain in full force and effect throughout the duration of the energy crisis. We would recommend that the section be modified to provide for the application of NEPA to any action taken under the Act which has continued in effect for more than 12 months.

Section 207, pertaining to actions to increase domestic petroleum supplies, is laudable but the authority vested in the President should be discretionary as opposed to mandatory.

Section 302 authorizes the Secretary of the Treasury to prepare recommendations to Congress for specific economic incentives to assist private industry and persons in complying with the provisions of the Act.

The basic purpose of this legislation is to vest authority in the President to meet the energy crisis. This is the only portion of the bill in which a specific department is mentioned. Various departments of the Federal Government, including this Department, possess expertise and statutory authorities which could be utilized in the development and implementation of these recommendations. It would be inappropriate

to vest such authority in one single agency and we recommend the deletion of the phrase "Secretary of the Treasury" and the insertion of "The President" to permit the President to draw upon all available resources for such a program.

The Committee may wish to consider inclusion of "force majeure" language to provide adequate protection for those required to comply with the mandatory provisions of the Act during the emergency energy crisis.

We further note that the bill does not provide for any type of judicial enforcement procedures, either on a Federal or State level: nor does it provide for utilization of injunctive relief.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

FURNISHED BY FPC STAFF—AMENDMENTS TO S. 2589 (COMMITTEE
PRINT No. 2)

SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, NOVEMBER 8, 1973

Section 102(b)—Revise to read:

(b) grant to the President of the United States, and direct him to exercise, specific temporary authority to deal with shortages of crude oil, residual fuel oil, refined petroleum products, natural gas, coal and other fuels, or dislocations in the national distribution systems thereof.

Section 203(b) (1)—

(1) an established priority system and a plan for rationing of crude oil, residual fuel oil, refined petroleum products, natural gas, coal and other fuels, quantitatively and qualitatively among distributors and consumers during periods of critical shortages, and

Purpose

To extend the coverage of the bill to all fossil fuels.

Section 202(c)—Revise to read:

(c) The authority to take action pursuant to this Act shall terminate two years after the date of enactment of this Act, *provided, however*, that the expiration of such authority to act shall not affect the continued legal authorization for any action or for any operation of any facility by any person which has been authorized prior to that date.

Purpose

To continue the legal authority to act beyond one year and to recognize that actions taken under the bill will continue for periods beyond the term of S. 2589.

Section 204(a)—Revise to read:

Notwithstanding any action taken on the part of State or local governments pursuant to Section 203, the President, acting directly or through a delegation to any Federal department or agency he deems appropriate, shall be empowered to—

(a) require that existing steam-electric generating stations which now burn petroleum or natural gas and which are determined by the Federal Power Commission to have the capability to burn coal, shall be converted to the use of domestic coal as their primary fuel, such conversions to be carried out within such time periods as the Federal Power Commission may determine considering the availability of suitable coal, facilities and the adequacy and reliability of bulk power supply.

Subsection 204(a) (1). To offset the costs of conversion and the costs of reconversion after the end of the energy emergency, the Internal Revenue Code shall be amended to allow a tax credit equal to the costs incurred by utility companies. The tax credit shall cover the costs of both the conversion and reconversion including equipment installation, removal costs and contract cancellation costs, and the expenses resulting from any "down" time required during periods of conversion and reconversion. Provision shall be made for the carry-back and carry-over of any such tax credits which cannot be utilized in the current taxable year.

Purpose

To confer discretion and delegation of Presidential authority with respect to the conversion of oil or gas fired plants to domestic coal and to provide for tax write-offs of the cost of such conversion or any reconversion.

Section 204(b)—Revise to read:

(b) authorize the Federal Power Commission for the duration of the energy emergency to implement the emergency fuel shortage contingency programs, as referred to in Section 202(a), as they relate to natural gas, through the exercise of authority granted under this Act, solely or jointly under existing powers of the Commission pursuant to the Natural Gas Act, 15 U.S.C. 717 (a) *et seq.* Actions taken by the Federal Power Commission pursuant to the delegated authority of this paragraph may be taken with actual notice but with or without prior hearing: *Provided, however,* That any persons adversely affected by an order of the Commission shall be entitled to the opportunity for a rulemaking type hearing as such hearings are set forth in Section 553 of Title 5 of the United States Code. Judicial review by persons adversely affected by actions of the Commission after such hearing shall be in accordance with Chapter 7 of Title 5 of the United States Code after such order takes effect.

Renumber remaining paragraphs of Section 204.

Purpose

To confer delegated authority upon the Federal Power Commission under expedited hearing procedures with subsequent judicial review. Add a new section between Sections 205 and 206.

Section 205-1. Water quality requirements:

For the purposes of Section 204(a) at the direction of the President, the Administrator of the Environmental Protection Agency is hereby authorized to waive specific requirements that may result from the Water Quality Act as amended by the Federal

Water Pollution Control Act Amendments of 1972, Public Law 92-500, as they pertain to electric power plants, where such waiver will allow plants to operate earlier or to operate at higher power levels than would otherwise be permitted under water quality requirements, if, in the opinion of the Federal Power Commission, such additional power is necessary to meet the energy emergency.

Purpose

To have stand-by authority to relieve and blockage to necessary electric power for water quality reasons.

Section 205 (a), page 9, line 3—Revise to read :

Stationary sources, on an individual plant basis.

Purpose

To allow facilities just coming on-line to switch to other fuels.

Section 205 (b)—Revise to read :

(b) To obtain a variance pursuant to this section, the owner or operator of such a plant must submit to the Administrator of EPA an application for a variance pursuant to this Act explaining why the variance is needed, and actions he has taken to secure adequate supplies of fuels which comply with the State implementation plan, and shall be accompanied by a detailed plan and schedule for the installation of appropriate air pollution control systems that will achieve compliance with applicable national primary ambient air quality standards. Appropriate air pollution control systems include pre-burning and post-burning technology to achieve applicable constant emissions standards and supplementary control systems which require emission limitations only when ambient air quality standards are threatened. Variances shall not be limited to the term of this Act but shall be granted for a period specified in the approved installation schedule.

Purpose

To allow supplemental controls. Supplemental control systems are an effective alternative to inflexible emissions standards and are equally satisfactory for achievement of primary ambient standards. Such systems are quicker to implement, are proven, can accommodate a wide range of fuel characteristics, are not as likely to reduce plant operating reliability, can have much less water quality and land impact, and are not inherently energy consumptive as are scrubbers. Managements of utilities and fuel suppliers cannot be expected to make commitments of the magnitude required for a period of a year (or less) but must make multi-year commitments.

Section 206—Revise to read :

No major action taken under this Act which action will be in effect for less than six months and actions taken pursuant to Section 204(a) of this Act in effect for more than six months shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, prior to taking any such major action that has a significant impact on the environment, if practicable, or in any event within

sixty days of taking such action, an environmental evaluation, with analysis equivalent to that required under section 102(2) (C) of the National Environmental Policy Act shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a thirty-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a six-month period, or any action to extend an action taken under this Act to a total period of more than six months shall be subject to the full provisions of the National Environmental Policy Act except as otherwise provided.

Purpose

To facilitate power plant conversion. All power plant conversions will be for periods greater than six months and all conversions would be held up many months if full National Environmental Policy Act compliance were required. Similar relief is given for actions of less than six months duration.

[QUESTIONS PRESENTED BY THE COMMITTEE TO THE CIVIL AERONAUTICS BOARD]

1. The airlines have been reducing service recently in order to conserve fuel. I understand this effort is resulting in a savings of several hundred millions gallons. What would you envision to be the CAB's role under this authority in section 203 of the bill?

2. The CAB has already approved the service reductions and I understand the airlines plan further reductions which the CAB will have an opportunity to review. Do you feel you need this additional authority?

3. What is the point at which the public service provided by air transportation becomes so impacted by cuts that severe dislocation results? How do you plan to maintain essential service?

4. What about flight procedures that waste fuel? Will you attempt to resolve this problem with the FAA?

CIVIL AERONAUTICS BOARD,
OFFICE OF THE CHAIRMAN,
Washington, D.C., November 9, 1973.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are answers to the questions which were submitted to the Civil Aeronautics Board at the hearings on S. 2589.

Sincerely,

BOB TIMM,
Chairman.

Enclosure.

Q. 1. The airlines have been reducing service recently in order to conserve fuel. I understand this effort is resulting in a savings of several hundred million gallons. What would you envision to be the CAB's role under this authority in section 203 of the bill?

A. 1. CAB's role would be to maintain essential public service in all markets. Additionally, it would be to maintain surveillance over the financial stability of the certificated air system and to seek to avoid any injury to the system.

Q. 2. The CAB has already approved the service reductions and I understand the airlines plan further reductions which the CAB will have an opportunity to review. Do you feel you need this additional authority?

A. 2. The CAB presently has no authority to prevent unilateral service reductions in a manner that would be detrimental to the public. This bill would provide authority to require maintenance of all publicly required service, and, give the Board authority to order reductions in air service in markets where the capacity is in excess of public need.

Q. 3. What is the point at which the public service provided by air transportation becomes so impacted by cuts that severe dislocation results?

A. 3. The point at which cuts would impact air transportation service to the public that would create severe dislocations is in a range of 20 to 25%. With the authority proposed by this bill the Board would deny carriers the right to remove essential services and order excessive levels in certain markets to be reduced.

Q. 4. What about flight procedures that waste fuel? Will you attempt to resolve this problem with the FAA?

A. 4. The air carriers have made some alterations in flight procedures voluntarily that avoid waste. The FAA has under consideration, I understand, further operational procedures that would conserve fuel. These include single-engine taxiing procedures, the gate control of aircraft, speed control in flight, and improvement in air traffic control procedures.

SMALL BUSINESS ADMINISTRATION,
Washington, D.C., November 8, 1973.

STATEMENT OF THOMAS S. KLEPPE, ADMINISTRATOR FOR THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. SENATE

Mr. Chairman, I very much appreciate the opportunity to present to the Committee the views of the Small Business Administration with respect to S. 2589.

S. 2589 would authorize the President to implement emergency fuel shortage contingency programs, which must devise a priority system for fuel rationing and must provide the capabilities of reducing energy consumption by specified amounts. In addition, State and local Governments must develop and implement similar programs. In the event a State or local Government fails to do so, the Federal program shall remain in effect in that area.

The bill also requires the President to expand available supplies of petroleum by, first, requiring oil- or gas-burning power plants with coal-burning capabilities to reconvert to burning coal, and granting temporary variances from air quality emission standards to allow such conversions, if necessary; second, authorizing certain regulatory agencies to adjust a carrier's operations authority in order to conserve fuel; and third, implementing Federal incentives to increase the use of public transportation.

Additional domestic supplies of fuel are required to be produced from certain designated oil fields technologically capable of producing above the assigned "maximum efficiency rate" for sustained periods of time. The President is also required to expand domestic energy supplies by the adjustment of processing operations of domestic refineries to assure maximum production capabilities and by requiring production of oil and gas on the naval petroleum reserves under certain circumstances.

Mr. Chairman, while we support, generally, the much-needed proposals contained in S. 2589, I would like to direct my comments to the effect of the energy shortage and necessary remedial action on the small businessman, rather than to the specific provisions of S. 2589.

Clearly, this is a crisis which affects all Americans and I am sure that small businessmen will do their utmost in helping to overcome this problem. We are deeply concerned, however, about possible discriminatory effects against small business. We urge that any controls instituted be fair to all business, whether large or small. SBA strongly recognizes the need for controls until the crisis is resolved, and we ask only that these controls be equitable for *all* concerned.

Certain industries where the small businessman prevails, such as the tourist industry, will be adversely affected by energy shortages. Furthermore, if percentage reductions in the allocation of energy are made on the basis of last year's usage, the small businessman will be hurt the most, and the lack of expanding energy sources will hinder the development of potential new businesses. The dynamic small firm might have its growth stymied if fuel cutbacks are made on an arbitrary percentage basis, and others may be forced to pool their scarce resources. This bartering, in turn, might lead to a lessening of competition.

On the other hand, the reduction in fuel supplies to the large firm on a pro rata basis may not cause comparable dislocation. Our entire economy could be adversely affected if economic growth is not continued through the expansion of small businesses. Therefore, we urge that efforts be made so that the small firm does not bear the discriminatory brunt of these necessary controls on energy usage. In addition, measures should be taken so that possible materials shortages resulting from energy shortages are not proportionately greater for small firms.

Variances in the Environmental Protection Agency regulations should be considered so that small businesses, such as job shops, can continue their activities. At the same time, SBA will do its utmost in helping to finance small business in energy conversions, which require significant capital investment.

It is also urgent that private citizens be educated on the need for energy conservation. The pending suggestions for the lowering of

home thermostats, greater use of mass transit and car pools, and reduced speed limits should be only a start. We feel it far better to reduce pleasure driving and boating, for example, than to have individuals unemployed because of the lack of an energy source at their place of business. The policy of reducing unnecessary lighting and other activities by the State of Oregon should be copied and actively promoted. Abundant electricity and heating fuel at home is of little use if factories and businesses are forced to shut down with ensuing unemployment. We feel that the American people will more than rise to the challenge when presented with the facts and suggestions as to what needs to be done.

As the spokesman for small business, I strongly urge that small, high technology firms be utilized to help develop solutions to the energy crisis. These firms have the ability to make a major contribution to our national effort for energy self sufficiency. They should be called upon to help share in the research and development required to solve these problems.

In conclusion, we are very concerned about the energy crisis and its effect upon small business. What we are most concerned about is that the necessary action not be discriminatory against small business. SBA will do its part, and we are confident small businessmen will do their share to meet the challenges of this problem.

DEPARTMENT OF JUSTICE,
LAND AND NATURAL RESOURCES DIVISION,
Washington, D.C., November 12, 1973.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: At your committee's hearing of November 9, 1973, on S. 2589, the "National Emergency Petroleum Act of 1973," the Department of Justice proposed to amend the bill by adding two sections, which would be numbered and entitled Section 308, "Administrative Procedure," and Section 309, "Judicial Review." The acting chairman deferred discussion of these sections and requested that we provide an explanation of their purposes and effects.

The section entitled "Administrative Procedure" is needed to allow the Federal agencies to carry out the programs to be established under this Act with sufficient expedition and flexibility. Subsection (a) is designed to waive the more time-consuming procedures of the Administrative Procedure Act, notably the requirements of adjudicatory hearings in 5 U.S.C. § 554, which could otherwise apply to actions taken under this Act. Subsection (b) is designed to provide for substitute procedures, which the agencies may design for maximum efficiency and flexibility, to afford persons affected by measures taken under this Act a fair opportunity to obtain either interpretations of agency rules or intra-agency review of any actions taken adversely to them. Subsection (c) provides that formal hearings shall be held wherever possible when rights of any parties may be affected by such actions. This section will permit the use of the somewhat truncated

administrative procedures necessary to cope with the emergency conditions giving rise to this Act, while at the same time meeting the constitutional requirements of procedural due process. The provisions of subsections (a) and (b) are similar to those of Section 207 of the Economic Stabilization Act, 85 Stat. 747.

The section entitled "Judicial Review" vests the District Courts with jurisdiction over most of the litigation which will arise under this Act. We do not intend, however, for this section to apply to actions taken under this Act by the Civil Aeronautics Board, the Interstate Commerce Commission, or the Federal Maritime Commission. Those regulatory agencies have specific judicial review provisions in their organic acts, which ought to apply, for the sake of uniformity, to such actions as the agencies might take under the authority of this Act or of both this Act and their organic acts. This section is intended to apply, rather, to litigation arising from or generated by the activities of the Department of the Interior, the Environmental Protection Agency, and other executive agencies with delegated responsibilities under this Act.

There are two important exceptions to the jurisdiction of the District Courts over litigation arising under this Act. First, national programs required by this Act and the regulations establishing such national programs may be challenged only in the United States Court of Appeals for the District of Columbia within 30 days of promulgation of the regulations. This means that programs, such as, for example, the Mandatory Allocation Program for Middle Distillate Fuels, and the regulations setting up such programs could only be reviewed for their overall legality and constitutionality in this Court of Appeals. We think that this centralization of judicial review is required in the interests of expedition and efficiency, in order that legal questions relating to these emergency programs, which Congress is requiring, be adjudicated without delay.

The other exception to the District Courts' jurisdiction is for programs and regulations which, although not of national applicability, are intended to apply generally to a certain area, such as a State, or several States or portions thereof. We followed the pattern of Section 307(b) of the Clean Air Act, 42 U.S.C. § 1857h-5(b), in drafting these provisions, as our extensive recent experience in Court of Appeals review proceedings under that Act has convinced us that where regulations are of general applicability, such as, for example, the State conservation and contingency programs required under the bill's Section 203(c) would be, requiring challenges to such programs to be brought initially in the Courts of Appeals can prevent inconsistent adjudications, uncertainty, and delay.

However, where individualized actions are taken to implement the programs, and even when the action involved is a rulemaking of particular applicability as described in 5 U.S.C. § 551(4), factual issues inevitably will be important aspects of any dispute resulting in litigation, and in such cases, we have found no adequate substitute for the factfinding abilities of the district court. Also, needless to say, we should not have direct Court of Appeals review of the thousands of agency decisions on individual rationing problems, conversion of generating plants, and production requirements. We note that at last

Friday's hearing several of your colleagues expressed approval of the idea, which we have endeavored to ensure in our proposed amendments, that most of the litigation generated under this Act be in the District Courts.

We are enclosing herewith the text of our proposed Sections 308 and 309, which contain certain perfecting editorial changes, but which are in substance identical to the provisions submitted to you on Friday.

Sincerely,

WALLACE H. JOHNSON,
Assistant Attorney General,
Land and Natural Resources Division.

308. Administrative Procedure

(a) The functions exercised under this Title are excluded from the operation of subchapter II of Chapter 5, and Chapter 7 of Title 5, United States Code, except as to the requirements of sections 552, 553, and 555 (c) of Title 5, United States Code.

(b) Any agency authorized by the President to issue rules, regulations or orders under this title shall, in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(c) To the maximum extent possible, any agency authorized by the President to take any action under this Act shall conduct formal hearings for the purpose of hearing arguments or acquiring information bearing on actions or proposed actions, other than procedures to which 5 U.S.C. § 553 would apply according to subsection (a) of this section, taken or to be taken under Sections 203, 204, 205, 206, 207 and 305 of this Act.

309. Judicial Review

Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within 30 days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within 30 days from the date of promulgation of any such rule or regulation.

Notwithstanding the amount in controversy, the District Courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Title, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, or the Federal Maritime Commission, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear and determine in any proceeding before it any issue raised by way of de-

fense (other than a defense based on the constitutionality of this Title or the validity of action taken by any agency under this Title). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Title or the validity of agency action under this Title, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of Chapter 89 of Title 28, United States Code.

X. CHANGES IN EXISTING LAW

Subsection (4) of rule XXIX of the Standing Rules of the Senate requires a statement of any changes in existing law made by the bill ordered reported. S. 2589 as reported amends the provisions of the Federal-Aid Highway Act of 1973, to increase from 70 percent to 80 percent the Federal share of expenditures for the purchase of buses and rolling stock for fixed rail for mass transit systems. Specifically, paragraph (3) of subsection (e) of section 142 of title 23, United States Code, is amended as follows: strike the period at the end of the paragraph and add the following: "except that, with respect to the purchase of buses and rolling stock for fixed rail, the Federal share shall be 80 per centum."

XI. ADDITIONAL AND MINORITY VIEWS

ADDITIONAL VIEWS OF SENATORS FANNIN, HANSEN, BUCKLEY, AND BARTLETT

During the year 1973 the Senate Interior Committee has reported six major bills affecting energy. These are: (1) S. 268, the Land Use Policy and Planning Assistance Act; (2) S. 425, the Surface Mining Reclamation Act; (3) S. 1570, the Emergency Petroleum Allocation Act; (4) S. 1081, the Federal Lands Right-of-Way Act; (5) S. 2176, the National Fuels and Energy Conservation Act; and (6) S. 2589, the National Energy Emergency Act.

Two of these, the Federal Lands Right-of-Way Act and the National Energy Emergency Act, are related in part to increasing energy supplies. What we very much regret is that in neither instance are the workings of the marketplace utilized to stimulate an increase in energy supplies.

Only by facing the hard necessity of freeing up the price structure can we stimulate the new high-risk investment and encourage the conservation of energy that together are required to narrow the gap between supply and demand.

What all of these bills do have in common is a philosophical bent toward the increase of Federal regulation, whether in the area of energy-producing or energy-consuming activities. Such regulation takes the form of elaborate formulas and procedures spelled out in legislative language. These provisions are likely to repeat the mistakes made in Federal regulation of natural gas production and in oil import quotas.

That is why we urgently requested public hearings on this bill. Such hearings were held with hardly more than 24 hours' notice to the witnesses called upon to testify. The letter to the chairman of this committee in which hearings were requested is reprinted in relevant part below. We include these portions of the letter to remind our colleagues that many of the problems we feared before the hearings were held do in fact remain in the bill.

We have reviewed your bill, S. 2589, The National Emergency Petroleum Act and the draft administration Emergency Energy Act. While we share your genuine concern about the gravity of the domestic and international energy supply situation and your sincere desire for speedy legislative action in a continuing nonpartisan manner, we nevertheless have serious reservations about the content of parts of both bills.

Regardless of intention, any such emergency legislation can profoundly affect the state of the Nation's economy as a whole. Regardless of intention, any such legislation can affect the health, well being, and lawful rights of the people of the

United States. Regardless of intention, any such legislation can result in the imposition of controls of a sweeping, omnipresent, and potentially crippling nature.

While recognizing that any such legislation must, by its nature, to some degree affect the economy, the rights and well-being of U.S. citizens, and also must require some level of temporary and unusual control, it is our firm conviction and belief that as Senators we have a constitutional duty to preserve democratic values and prevent abuses of congressional and executive power inconsistent with such values.

As you know, we are indeed committed to move forward with you in molding appropriate legislation in a responsive, timely, and nonpartisan manner. We fear, however, that excessive hasty action could result in horrendous and unintended calamity for the people and institutions of this country. Accordingly, we feel that it is incumbent upon us to tailor the emergency authority to the fuels shortage problem in order to avoid both delegation of excessively sweeping emergency authority and delegation of inadequate emergency authority.

Toward this end we concur in your suggestion that administration and Senate staff personnel begin to work diligently in a cooperative effort to prepare draft emergency legislation for our urgent consideration. Following the completion of such a draft we would then expect to have the lawfully required hearings during which we may hear testimony from expert witnesses as to the likely impact of the application of contemplated provisions of the draft bill on the fuels shortage (including production, refining, transportation, and distribution of petroleum and associated matters affecting coal production, transportation, and use), the economy, the rights of U.S. citizens, and the preservation of our democratic institutions.

Thus, in general terms, while recognizing the need for some type of emergency legislation, we feel that many of the provisions of this bill could do violence to the economy, the rights of U.S. citizens and the preservation of our democratic institutions.

Additionally, returning to the issue of energy supplies, we point out that there is precious little in this bill designed to increase the supply of energy. There is preambulatory language in the purpose and finding sections, but little in the way of substance in the operative sections of the bill to achieve such goals.

The minority members of this committee have made efforts to correct such deficiencies. We close these brief remarks with a prophecy:

Many people of our Nation will be needlessly cold because of some of the shortcomings of this bill. Many people of this country will be needlessly unemployed because we failed to seize the opportunity to increase the supply of energy. For example, producing at rates in excess of MER neither makes sense nor produces more oil. As a matter of fact, it guarantees that less total oil will be available.

Accordingly, we caution our colleagues on both sides of the aisle to give S. 2589 their earnest consideration, with a view to offering

appropriate amendments. While admitting the emergency nature of our energy problem, we must keep in mind that haste can make waste. And in this case the waste could entail irreparable damage to the health, liberty and property rights of the citizens of this country, and to the economic strength of the Nation as a whole.

PAUL FANNIN.
CLIFFORD P. HANSEN.
JAMES L. BUCKLEY.
DEWEY F. BARTLETT.

ADDITIONAL VIEWS OF SENATOR JAMES L. BUCKLEY

Elsewhere in this report I have associated myself with the additional views of the minority to express our shared concern that the bill before us will further extend the reach of Federal regulation into the production and consumption of energy, and will delegate very broad and possibly excessive authority to the Executive.

I would like to amplify this concern by pointing out that not only does the National Energy Emergency Act fail to provide those measures which are most likely to effect energy conservation and to stimulate the development of new supplies, but also that the emergency authority provided in S. 2589 has become necessary in large part because Congress has neglected to cope squarely with the root causes for the present energy shortages. Nowhere in the Statement of Findings and Purposes does Congress attribute the imminent shortages of crude oil and refined products to the controls on domestic petroleum and oil field equipment prices under the economic stabilization program, and to the disincentives to new refinery construction caused by the oil import quota programs. Furthermore, the committee specifically declined to deal with the FPC's regulation of the wellhead price of natural gas, a mistaken Federal energy policy which long ago destroyed adequate incentives to search for gas for commitment to interstate pipelines.

In the absence of such fundamental changes in Federal policy toward pricing, we are destined to see the current energy emergency develop into a chronic one on the basis of which Congress will be asked to institutionalize the extraordinary and dangerous delegation of power that S. 2589 bestows upon the Presidency.

Even assuming a life of no more than 1 year for the sweeping powers it will vest in the Executive, S. 2589 suffers from a number of major defects. It contains, for example, a number of provisions that go far beyond the requirements of emergency legislation. These will have the effect, inherent in the workings of bureaucracies, of delaying the appropriate response. They will also convey to the executive branch extraordinary powers to interfere in the normal functioning of the economy. For instance, section 204(b) confers new and very broad authority to the ICC, CAB and Federal Maritime Commission to adjust operating authority of carriers for the purpose of conserving fuel, including scheduling and rate adjustments. Such actions are beyond the present capabilities of these agencies and will require substantial increases in manpower. Such authority can predictably be extended for as long as emergency conditions prevail.

Section 204(c), in attempting to encourage the use of mass transit in preference for private automobiles puts the Federal Government into the business of subsidizing reduced fares for mass transit, a response to the energy crisis that, once initiated, would predictably be-

come institutionalized. The committee did not consider alternative measures which could have the same effect, such as increasing the Federal gasoline excise tax or, preferably, allowing petroleum products to rise in response to marketplace forces. Surely so sweeping an innovation warranted the thought and hearings normally associated with prudent legislation.

Once again, in an attempt to deal with a special case, Congress has yielded to the temptation to amend the National Environmental Policy Act. I believe such a response to be unwise. If NEPA is judged to be inadequate to deal with short-term emergencies, the act itself should be amended to explicitly provide for such exceptions in an orderly fashion. To do otherwise simply invites a case-by-case attack on NEPA, with special interests seeking exemptions. Thus, rather than having a national environmental policy, we will have a policy which is applied only to the politically most vulnerable sectors of our society, and not to our society as a whole.

My own reading of the statute suggests that NEPA is sufficiently resilient to deal with the pending energy emergency. Federal agencies are required to file environmental impact statements prior to taking any action significantly affecting the environment "to the fullest extent possible."

Court decisions under NEPA have indicated that where a distinct emergency need exists, the mandate under section 102 can be fulfilled by expedited procedures tailored to the specific emergency measure. Section 206 of the National Energy Emergency Act opens NEPA up again to a new series of decisions. It certainly will not be clear in some instances whether actions which seek exemption from NEPA can be identified as being taken under the National Energy Emergency Act.

But even if I am in error in my analysis, the existence of NEPA cannot impede the kind of immediate, emergency action that is the sole justification of S. 2589. I speak of the authority to allocate scarce commodities and to institute conservation measures—action that must be taken immediately if we are to conserve our energy sources. Surely we could have considered in separate legislation any needs for streamlining NEPA procedures.

Although S. 2589 contains several provisions which are of dubious value in coping with the energy emergency, it fails to include authority which I believe to be essential to deal with the complexity of the distribution of petroleum products. During the markup, I offered an amendment to authorize the President to consult with representatives of industry, labor, agriculture and other affected domestic interests to develop voluntary agreements and programs to allocate materials and facilities in such manner, and upon such conditions, as he shall deem necessary and appropriate to protect the national defense.

This would be accomplished through a tested mechanism in the Defense Production Act of 1950, which provides adequate antitrust safeguards to all interests concerned and possess the requisite flexibility to respond to shortages of the magnitude facing the country during the coming year. As Governor Love testified before the committee, the most effective achievement of our objectives of equitable allocation of limited supplies of petroleum products and the maximum utilization of the energy industry's operational know-how; (2) provide for resolution

of public policy issues and the establishment of the order of priorities by governmental representatives; and (3) permit the flexibility for swift response. My amendment was not adopted, but I was assured that after consultation with other committees, an appropriate committee amendment would be drafted to accomplish this objective. If agreement cannot be reached on such an alternative, I will reintroduce my own amendment on the floor.

Whether or not I shall be able to vote in favor of the National Energy Emergency Act in the Senate will depend on the adoption of appropriate amendments to overcome what I believe are serious shortcomings. I clearly recognize that the country is faced with a real and serious shortage of essential fuels. The figures that the President gave in his energy message are, if anything, on the conservative side. Significant savings can be achieved if everyone cooperates with regard to driving speeds, heating of buildings, and so forth. But I fear that even the emergency measures called for in this bill will not deter some serious hardships during this winter.

In the short term, mandatory allocation of certain fuels will be required. Existing stocks of fuels over a short period of time cannot be augmented by any change in price, and consequently an equitable division of existing supplies may be an appropriate response. But in the longer term, the best way to deal with a shortage is not to distribute the shortage among buyers, but to increase the supply by allowing consumers to communicate their wishes to producers through changes in prices in the marketplace.

Federal energy policy must recognize this economic fact of life and respond accordingly.

JAMES L. BUCKLEY.

ADDITIONAL VIEWS OF SENATOR JAMES A. McCLURE

The energy crisis which the United States is now experiencing was not unexpected. For several years there have been warnings and predictions of shortages, predictions which have become unfortunately too accurate. As chairman of the House Republican Task Force on Energy and Resources from March 1971 to January 1973, I consistently urged recognition of the true energy situation facing us. During April 1972, I joined with former Chairman Wayne Aspinall in hearings before the House Committee on Interior and Insular Affairs, which proved conclusively that our energy situation was indeed a crisis. But, the administration and the national news media refused to present this fact to the people. In this refusal, they were joined by many Members of Congress and private citizens. And, unfortunately, industry's efforts to warn the public were ineffective. Now we are reaping the results of that lack of public understanding.

Now that heating oil shortages are only a matter of days, not months away, we no longer can concern ourselves with only the long-range problem. And for that reason the committee has reported out S. 2589.

I share the concerns of my colleagues that the bill does not provide substantive support for increasing energy supplies. I also am concerned at the threat to individual rights and constitutional procedures. If only the Congress and administration had begun work earlier to alert the public to this crisis, these serious shortcomings could have been avoided. But now, the situation has reached the stage where drastic measures are called for.

The present crisis in the Middle East, combined with U.S. policy toward the Arab Nations, has resulted in a projected reduction in available fuel supplies of at least 18 percent, nationwide. In certain areas, however, the shortage could reach 40 percent. It is difficult to conceive of a winter with that magnitude of shortage. Just keeping homes warm would be difficult, much less keeping factories and public facilities operating.

In this present situation, the only prudent course for responsible legislators is to prepare for the worst. We can individually hope for the best, but we must provide the machinery that will be necessary if the worst occurs.

It is with great reluctance that I support the reporting of this bill. By reducing the immediate threat, though, to our society, I am hopeful that work can begin on sound, long-range solutions for meeting future energy needs without weakening our individual liberties.

JAMES A. McCLURE.

ADDITIONAL VIEWS OF SENATOR DEWEY F. BARTLETT

In addition to sharing the views submitted by Senators Fannin, Hansen, et cetera, I would like to express separate views on S. 2589.

This country is faced with an energy crisis much more severe than that of World War II.

S. 2589, as reported out of the Senate Interior and Insular Affairs Committee, does no more than demonstrate again the reluctance of Congress to address the real problem—how to stimulate the development of sufficient domestic energy supplies.

Again Congress' answer to balancing supply and demand seems to be—"demand must be lowered"—rather than "supplies must be increased."

The people are suffering and will even suffer more because Congress refuses to take action to increase energy supplies.

I had hoped that S. 2589 would become a package to deal with both the supply and demand aspects of our energy crisis. Instead the people of the United States are being asked to sacrifice with no assurance that their sacrifice will be temporary and that as soon as possible increased supplies of energy will make further sacrifices unnecessary. Quite the contrary, this legislation virtually locks in shortage indefinitely by slowing the entire U.S. economy.

This Nation, in the past, has used our plentiful supply of energy to expand greatly our productivity—our productivity in turn has brought high employment, high standards of living, good health care, an improved environment, expensive and numerous social program—a record not matched by any nation.

Our shortage of energy means a reduction in productivity—a reduction in jobs, standard of living, health care, environmental progress, and social reforms.

We cannot increase productivity at prices that produce shortages of oil and gas, of steel and other strategic commodities. The oil and gas industry is like a grocery store which has been selling items off the shelf at less than replacement prices.

The American people don't mind sacrificing to correct our energy shortage, but they don't want sacrifices guaranteed only to continue the shortage. Americans deserve a workable plan to increase supplies while we ration short supplies. To do less is to insult the intelligence of our citizens—and shortchange them in the process. Americans are willing to pay higher prices when it means getting something for this sacrifice.

The program provided in S. 2589 promises the American people a rough ride in a stormy sea. The American people don't mind roughing it. They can take it. But they want more than a rudderless ship without an engine. They don't want to continue with the storm as it develops into a hurricane. They want direction. They want to get somewhere. They don't want to sacrifice for naught. S. 2589 is a sacrifice

with little hope. Higher prices require a sacrifice, too, but promise more energy for the effort.

Forced rationing and controlled low prices must be controlled by force because the two are incompatible.

S. 2589 may serve in some people's minds as a solution to the real problem of increasing supplies of energy, but in reality may be a camouflage for no action.

DEWEY F. BARTLETT.

MINORITY VIEWS OF SENATOR MARK O. HATFIELD

When Congress first passed the Economic Stabilization Act, we told the President, in effect, "You solve the economic problems of the country." That legislation gave us phases I through IV, with Pay Boards, Price Commissions and Cost of Living Councils; prescribing controls, freezes, and complex formulas; resulting in severe economic dislocations that have worked hardships on nearly every segment of American society—all without addressing the fundamental causes of our economic ills.

It is a simple truth that wage and price controls, in all their phases, have not worked. In approving that grant of power, Congress taunted the President to take such steps. This push from Congress, coupled with a favorable attitude of the public, combined to produce an executive policy that has failed miserably.

But Congress has begun to grasp the magnitude of its abdication to the executive branch. We struggle to reassert ourselves in the budgetary process, in confirmation powers, and as initiators of, not just reactors to, policy and programs. Why then, in one sweeping gesture, by giving the President the authority to impose vast new controls, is Congress again willing to give away its responsibility and power over more of Federal governmental policy, which impacts on so much of American life? An examination of this bill shows we are ready to abdicate all responsibility for the manner in which the country will deal with another critical problem, our immediate energy situation.

As I said to my fellow Interior Committee members, if you liked the Economic Stabilization Act, you will love this emergency energy bill. I cannot think of a single sector of our economic life that will not be under the direct control of the President or his agents. Drastic alterations of people's personal and business lives will be implemented at the stroke of a pen.

No one denies the seriousness of our energy problems, nor the need for creative solutions. I cannot understand, however, why Congress is so eager to throw away the leadership role it has established in finding solutions to our energy problems.

I will not enumerate here the positive steps the Congress and this committee have taken, in spite of a reluctant administration, on energy issues. As the ranking Republican on the Appropriations Subcommittee on the Public Works and AEC budgets, I have cited impoundment after impoundment of energy-related funds.

The administration should suggest specific programs, rather than seek a blank check. Congress should consider specific measures, not grant *carte blanche* authority.

In seeking solutions to our energy problems, Congress should continue to exercise its constitutional role in the Federal Government. We can expect that after this bill is signed into law and soon after the first exercise of the enormous powers granted under this legislation, our legislative hoppers will be filled with bills to correct the new problems that the Executive's energy regulations are sure to bring. They will be sponsored by Members who will cite "congressional responsibility."

The preference of Congress to centralize power further in the Executive is a factor that has brought this country to its present po-

litical crisis. This is the very psychology that Congress should reject.

The distribution of powers between Congress and the Executive is well summarized in this quotation from Justice Brandeis:

Separation of powers was adopted by the convention in 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but by means of inevitable friction incident to the distribution of governmental powers among three departments, to save the country from autocracy.

Approval of this legislation transforms the phrase "energy czar" from a cute cliché to a chilling reality. Heating our homes through this winter need not be done at the cost of further entrenching Executive autocracy.

ADDENDUM

During the consideration of S. 2589 by the Interior Committee, I suggested that if this bill were going to mandate an energy conservation program including transportation control plans, curbs on "non-essential uses," limitations on operating hours of commercial establishments, temperature restrictions in office buildings, and reduced speed limits, we might as well include a phaseout of nonreturnable soft drink and beer containers. We have in Oregon a law prohibiting such containers, and the energy savings and reduction in litter are very significant. I would hope that the President or Congress would examine this possibility immediately, and recommend implementation of this kind of program.

The following remarks are from my statement accompanying introduction of S. 2062, the Nonreturnable Beverage Container Prohibition Act:

Dr. Brure Hannon, assistant professor of general engineering and staff member with the Center for Advanced Computation at the University of Illinois at Urbana, has conducted an excellent study dealing with this topic. He concludes that the energy required to deliver a unit of beverage to the consumer is about three times more in a throwaway glass container than in returnable bottles. He estimates that 19,640 Btu's are necessary to bottle a gallon of beer in 12 ounce returnable bottles while 59,800 Btu's are necessary for nonreturnable bottles and 58,190 Btu's for cans. I found one of Dr. Hannon's statistics astounding:

"If the beverage industry were converted entirely to returnable containers, the 1970 container system energy, which accounts for 0.48 percent of the total U.S. energy demand, would be reduced by about 40 percent. The energy savings in 1970 would have supplied the total electrical needs for Washington, D.C., Pittsburgh, San Francisco, and Boston for about 5 months, or about 30 billion kilowatt hours."

It should be noted here that this figure includes the energy consumed in the milk container system, although the energy consumption of this system is slight when compared to soft drinks or beer, which constitute about one-half of all beverage and food containers.

MARK O. HATFIELD.

SENATE DEBATE ON S. 2589 AND S. 2680,
NOVEMBER 15, 1973

NATIONAL ENERGY EMERGENCY ACT OF 1973

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2589, which the clerk will report.

The legislative clerk read the bill by title, as follows:

A bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. JACKSON. Mr. President, we are about to consider a vital piece of emergency legislation, the National Energy Emergency Act of 1973. This bill is a measure to reduce in an orderly and planned manner non-essential energy consumption, to increase domestic production of needed fuels, and to insure continuation of vital services during the crisis now facing the Nation.

Mr. President, the energy emergency now upon us is unprecedented. Although many of us have been anticipating and predicting severe fuel shortages for some time, the conflict in the Middle East and the embargo imposed by Arab nations have escalated these shortfalls to major crisis proportions. Estimates of the shortages we can now anticipate run as high as 3 million barrels a day, up from earlier estimates of 1.2 million barrels. By January, we may have a 20-percent disparity between demand and available petroleum supplies.

These shortages will surely wreak havoc with our economy and with employment, particularly if we take no immediate action to distribute fuels equitably and ease the burden of need. Unless we now develop contingency plans for directing and reducing consumption, we will find hospitals and factories running out of fuel unexpectedly. It is essential that we take steps to prepare ourselves for winter fuel shortages.

Already we have been deluged with letters and phone calls concerning our rapidly deteriorating energy situation. Utilities like Consolidated Edison and the New England Power Exchange anticipate shortages of up to 30 percent of their fuel requirements. In California alone, utilities will be short 19 million barrels of distillates this winter. Schools in Oregon will be closed for a month this winter for lack of heating oil. The Department of Defense is more than 10 percent short of daily fuel needs and has requested priority allocation of energy supplies, as provided for in the Defense Production Act of 1950.

This is a time for some national "belt tightening," as we turn from heavy dependence on foreign oil to national energy self-sufficiency. It

is a time for all Americans to share the burden of fuel shortages. I am confident that, with proper contingency plants, we can minimize the adverse impact of the current emergency.

And yet, as we are moving this emergency legislation, we are also being inundated by calls and requests from special interest groups wanting to be exempt from sharing the burden of fuel shortages. In a time of nationwide emergency, we cannot countenance those who advocate rationing and conservation for everyone, but want special exceptions for themselves. There will be no exemptions from the fuel shortages, and there should be none from the national effort to cope with these shortages. The burden must be shared equitably by all regions and interests.

We are facing a critical period for the Nation's economy. With inflation still rampant, we now find ourselves faced with the prospect of factories and businesses closing for lack of fuel. Estimates for unemployment by January run as high as 8 percent. These are problems which require emergency measures. A major purpose of this legislation is to minimize the adverse impact of the energy shortage on the economy. This emergency situation should not be used to occasion windfall profits or special benefits to any one sector of the economy, while the rest of the Nation is forced to endure inconvenience and hardship.

Mr. AIKEN. The thing that concerns me is, What provision is made in this bill for those people who live, say 15 to 30 miles from the place where they work? I have in mind my own community, as I suppose we all have, where two young ladies in the community have to go 15 miles a day to work in nearby hospitals, which are rather short handed at this time. Other young men travel up to 35 miles a day to machine tool plants, where they have been, short handed and need labor for export business as well as for supplying the domestic demand. Then, of course, we have people who have moved into the suburbs and have to go into their offices. I suppose in the suburbs they may have public transportation, but they certainly do not have it where people live in my own area. They have to get themselves to work.

I am just wondering what provision is made for situations of that kind, because otherwise the plants might have to close, not because of lack of oil but because of lack of personnel.

Mr. JACKSON. We do not address ourselves specifically to the point raised by the senior Senator from Vermont. We do provide in this legislation for local rationing boards. It is the sort of role whose function the Senator describes that local rationing board must play. I think if we tried in the statute to establish all of the specific regulations, it would be unmanageable. I trust my colleagues will agree that our best course of action is to follow the experience of World War II, where we utilized local rationing boards patterned somewhat after the draft boards.

Mr. AIKEN. Yes. We have been encouraging people to live in the country through the Rural Development Act and other acts. Now, I am just concerned about what would happen to them. But I think we will have to leave that in the hands of the local people, but local areas will have to be assured of their proper supply of fuel and gasoline.

Mr. JACKSON. May I point out to my friend that one of the optimum means of fuels savings, of course—in fact, will be carpools. We hope

that the people in the country as well as the people in the city areas will be utilizing carpools.

Mr. AIKEN. As far as possible.

Mr. JACKSON. The Senator is correct. In some cases it is impossible. We understand that.

Mr. AIKEN. And these same people require fuel to keep their homes warm. In my own community heating oil was about 18 cents a gallon a year ago. It is now 29 cents a gallon.

Mr. JACKSON. I would be surprised if it is not double that. Maybe it will be next week.

Mr. AIKEN. I am advising some of them to stay home and cut wood.

Mr. JACKSON. I believe we have provided the proper machinery to deal with the specific problems that are so difficult. The last place in which we want to make the decision for the community is Washington, D.C. That is why we would have local boards.

Mr. AIKEN. The responsibility will be largely local.

Mr. JACKSON. The Senator is correct.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. FANNIN. Mr. President, several days ago the Washington Post referred to this as "energy week in the Senate." Might I add that, for the Interior Committee, this past session has been "energy year." In 1973 we have reported six major bills on energy: The Land Use Policy and Planning Assistance Act; the Surface Mining Reclamation Act; the Emergency Petroleum Allocation Act; the National Fuels and Energy Conservation Act; the Federal Lands Right-of-Way Act, which I fully expect the President to sign shortly; and the National Energy Emergency Act which we are discussing today.

May I point out that, regrettably, of those six bills only the trans-Alaska pipeline bill and the legislation dealing with our current energy emergency address in any way the problem of increasing energy supplies. It is my firm belief that the major flaw in both of these bills lies in their failure to leave to the workings of the marketplace the stimulation of increased energy supplies. If we are to persuade industry to make the high risk investments necessary to meet our energy problems, and if we are to encourage the consumer to curb his wasteful use of excess energy, we must face up to the bitter necessity of freeing up the price structure.

What these six major bills do have in common—also regrettably—is a philosophical bent toward expanding the scope of Federal regulation of both energy production and energy consumption. It would seem to me that a lesson should have been learned from the mistakes of Federal regulation of natural gas production. The elaborate regulatory procedures and formulas contained in these bills bode ill for producer and consumer alike.

It was in light of these considerations that several of my colleagues and I urgently requested public hearings on this bill. Although such hearings were in fact held, they came with scarcely 24-hours' notice to the witnesses called upon to testify. In a letter to the distinguished chairman of the Interior Committee, five other Senators and myself recommended allowing a reasonable period of time, consistent with the emergency nature of the problem, for thoughtful analysis and con-

sideration of S. 2589. I would like to share that letter with my colleagues at this time. It reads:

HON. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

WASHINGTON, D.C., November 5, 1973.

DEAR SCOOP: We have reviewed your bill, S. 2589, "The National Emergency Petroleum Act" and the draft Administration "Emergency Energy Act". While we share your genuine concern about the gravity of the domestic and international energy supply situation and your sincere desire for speedy legislative action in a continuing nonpartisan manner, we nevertheless have serious reservations about the content of parts of both bills.

Regardless of intention, any such emergency legislation can profoundly affect the state of the Nation's economy as a whole. Regardless of intention, any such legislation can affect the health, well being, and lawful rights of the people of the United States. Regardless of intention, any such legislation can result in the imposition of controls of a sweeping, omnipresent and potentially crippling nature.

While recognizing that any such legislation must, by its nature, to some degree affect the economy, the rights and well being of U.S. citizens, and also must require some level of temporary and unusual control, it is our firm conviction and belief that as senators we have a constitutional duty to preserve democratic values and prevent abuses of congressional and executive power inconsistent with such values.

As you know, we are indeed committed to move forward with you in molding appropriate legislation in a responsive, timely and nonpartisan manner. We fear, however, that excessively hasty action could result in horrendous and unintended calamity for the people and institutions of this country. Accordingly, we feel that it is incumbent upon us to tailor the emergency authority to the fuel shortage problem in order to avoid both delegation of excessively sweeping emergency authority and delegation of inadequate emergency authority.

Toward this end we concur in your suggestion that Administration and Senate staff personnel begin to work diligently in a cooperative effort to prepare draft emergency legislation for our urgent consideration. Following the completion of such a draft we would then expect to have the lawfully required hearings during which we may hear testimony from expert witnesses as to the likely impact of the application of contemplated provisions of the draft bill on the fuels shortage (including production, refining, transportation, and distribution of petroleum and associated matters affecting coal production, transportation, and use), the economy, the rights of U.S. citizens, and the preservation of our democratic institutions.

Sincerely yours,

CLIFFORD P. HANSEN.
DEWEY F. BARTLETT.
EDMUND S. MUSKIE.
PAUL FANNIN.
MARK O. HATFIELD.
JAMES L. BUCKLEY.

Mr. FANNIN. In general terms, although those of us signing that letter recognize the need for some type of emergency legislation to address this problem, we felt that many of the provisions of S. 2589 could do violence to the economy, the rights of U.S. citizens, and the preservation of our democratic institutions.

To return to the issue of energy supplies, I point out that the proposed National Energy Emergency Act embodies precious little in the way of measures tailored to increase the supply of energy. The preambulatory sections might wax eloquent on the need for significant changes in our energy situation, but the substance of operative sections does not reflect concern for achievement of such goals.

During the committee's discussion of this legislation, the other minority members and I made every possible effort to correct these

shortcomings, and will continue to do so until a final version of the bill is agreed upon by this body.

I call my colleagues' attention to **section 204(e)** which requires Federal departments and agencies including regulatory agencies to survey the activities over which they have jurisdiction in order to identify and recommend to the Congress additional measures related to specific savings of energy.

It was my understanding during the discussions at the executive session that committee members intended this to apply to the Federal Communications Commission inasmuch as all members recognized that keeping television sets and radios operating 18 to 20 hours a day consumes enormous amounts of electricity.

Accordingly, it is the hope of members of the committee that the FCC will thoroughly investigate and within 30 days report back to the Congress the amount of electricity now being utilized by the industry in addition to recommending action that can be taken in time of an emergency to conserve energy.

In considering this bill, the committee realized that in some cases the President should have the authority to require certain electric generating plants to burn coal. A key point in the discussion of the possible impacts on the environment of requiring switching to coal is the lack of a sufficient supply of low-sulfur fuels. The committee recognized that in many areas where low-sulfur fuels would be required to maintain air quality standards, such fuels are not readily available—for example, the State of Illinois possesses extensive deposits of high-sulfur fuels, which cannot by law be burned. Transporting low-sulfur coal from Wyoming, which would be necessary to maintain air quality standards, would involve not only expending additional amounts of our precious fuel but might require a time period too long for an emergency situation.

While recognizing the necessity for an arrangement to address such problems, we arrived at an agreement to include in **section 205** provision for granting a variance of air quality standards in such cases, pursuant to amendments to be made to the Clean Air Act. This understanding was based upon a clear commitment from members of the Senate Public Works Committee that they would proceed expeditiously to report out those necessary amendments. I look forward to the assistance of that committee in supplying the provisions which will assist industries subject to emergency conversion requirements under this legislation.

I should call my colleague's attention to the provision of **section 207(b)** which authorizes the President to require certain oilfields, on lands in which there is a Federal interest, to produce in excess of their maximum efficient rate. The committee recognized that in the exercise of that authority a "taking of private property" could occur, which would under the Constitution be compensable. This is an area which will require more explicit attention at a later time during this debate.

Regarding **section 207(c)**, there was an understanding reached in committee which unfortunately was not included in the report. Accordingly, I would like to make the record clear on this point, as I am certain the distinguished floor leader would agree. The intent of this section is to authorize the President to adjust processing operations of domestic refineries within the limits of their existing engineering

capability to produce refined products in proportions commensurate with national needs.

This section is not intended to authorize the President to impose new design and construction modifications within existing refineries of any permanent nature. It would be inequitable to do otherwise because the refineries would accordingly be required to invest major sums of their capital needed for energy production to make permanent structural changes in their refineries in order to comply with emergency requirements.

Following termination of the emergency the refineries would therefore be forced to expend additional capital to tear down and rebuild the previously modified parts of their refineries in order to adjust to normal operations. Such a requirement additionally could be considered a "taking of private property" and therefore compensable by virtue of the protection afforded by the Constitution.

The record is clear that existing refineries have sufficient existing flexibility to meet the requirements contemplated by this act and therefore, to summarize, this section is not intended to authorize the President to require major structural changes in U.S. refineries. I will have other remarks to make concerning other provisions of this bill at a later time during the debate.

Returning now to the thrust of the bill as a whole, I leave my colleagues with this prediction: Many Americans will needlessly suffer from the cold this winter because of the failings of this bill. Many of our people will be needlessly unemployed because we failed to seize the opportunity to increase our supply of energy. While I am fully aware that our energy problem has reached emergency proportions, I cannot ignore the knowledge that hasty actions often yield wasteful and disastrous results.

Accordingly, I encourage each of you to give S. 2589 your most careful consideration with a view toward offering appropriate amendments. The potential consequences of inadequate legislation on this matter are irreparable damage to the health, liberty, and property rights of the citizens of the United States, and to the economic strength of the Nation as a whole.

Mr. FANNIN. Mr. President, I yield the floor.

Mr. PASTORE. Mr. President, is the bill open to amendment?

The ACTING PRESIDENT pro tempore. The bill is open to amendment?

Mr. PASTORE. I call up my amendment at the desk, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

At page 18, after line 18, insert a new subsection 203(f) as follows, and redesignate subsequent subsections:

"(f) In exercising the authority provided for in this Act, the Emergency Petroleum Allocation Act of 1973, the Economic Stabilization Act of 1970, as amended, and the Defense Production Act of 1950, as amended, the President shall insure that all regions and all States of the nation share available fuels in an equitable manner. The President shall give special consideration to those States and those regions of the country which are depressed economically, experiencing high unemployment, or which lack ready access to energy transportation facilities adequate to meet their essential requirements."

Mr. PASTORE. Mr. President, I shall be very brief. I think this amendment is easy to understand.

We in the New England part of the country have been faced for a long, long time with a shortage of oil and a high cost of the fuels that we have had to buy. Going back three or four administrations, under different Presidents, we have tried time and time again, when conditions could be considered almost normal, to persuade them that they should have removed the quotas that were imposed upon the importation of residual oil or crude oil, either from Venezuela or from the Middle East.

The administrations never saw fit to do that, and as a result we were always in short supply. We were always faced with a high cost because of the shortage of supply, and now we have reached the critical point. Now we are actually in a crisis, and we find ourselves in a position where insult is being added to injury. We are told that the thrust of the administration's policy is to urge all public utilities which have a dual capacity, whereby they were using coal and went to oil, that now they should go back to coal.

I am not particularly against that. As a matter of fact, I go along with the idea, because of the shortage. But the fact still remains that we do not have the transportation to bring us the coal, and for that reason we are going to find ourselves in a shortfall situation of 48 percent beginning with the month of March.

That was the assertion that was made at the White House when we met with the President only a short while ago, and that has been reiterated by the Senator from Washington (Mr. Jackson), who is manager of the bill.

What would my amendment do? Very simply, it says this: That in order to insure that all regions and all States of the Nation shall share available fuel in an equitable manner, the President shall give special consideration to those States and those regions of the country which are depressed economically, experiencing high unemployment, or which lack ready access to energy transportation facilities adequate to meet their essential requirements.

When we considered the allocation bill, I asked that an amendment be inserted in that bill, which was agreed to by the Senate and incorporated as **title IV**, entitled "Equitable Allocation of Crude Oil and Petroleum Products Between Regions of the Country and the Several States." I ask unanimous consent that that provision be printed in the Record at this point.

There being up no objection, the provision was ordered to be printed in the Record, as follows:

5. Equitable Allocation

TITLE IV—EQUITABLE ALLOCATION OF CRUDE OIL AND PETROLEUM PRODUCTS BETWEEN REGIONS OF THE COUNTRY AND THE SEVERAL STATES

Sec. 401. (a) The President is authorized and directed to monitor the availability of crude oil and petroleum products to satisfy the fuel requirement of all regions of the country and of all of the several States. If the President determines that any region or any States is experiencing a shortage of crude oil or petroleum products while at the same time other regions or States are enjoying a surplus, the President is authorized and directed to take any action necessary to insure an equitable allocation of available crude oil and petroleum products among all regions and all of the several States.

(b) In implementing subsection (a) the President shall consider all current and prospective sources of crude oil and petroleum products supply, including but not limited to production from Alaska, the Outer Continental Shelf, the contiguous States, synthetic fuels, opportunities for fuel substitution and conservation, as well as imports of crude oil or petroleum products from foreign sources.

(c) Whenever the President determines pursuant to subsection (a) that an imbalance in the availability of crude oil or petroleum products exists between regions of the country or between any of the States, he is authorized to take any action necessary to insure an equitable allocation of available crude oil and petroleum products. Such action may include, but is not limited to, direct mandatory allocations of available crude oil and petroleum product supplies; adding additional capacity to existing pipelines; requiring that the flow of existing pipelines be reversed; and directing tankers on the high seas to specified ports of entry.

(d) The President shall furnish the Congress with a report every three months on the availability of sufficient fuel supplies to meet the requirements of all regions and all States. This report shall also contain a summary of any actions that the President has taken under this section, recommendation for any legislation which may be needed to achieve the purposes of this section, and a statement of actions taken by the executive branch to increase the supply of and to reduce the demand for crude oil and petroleum products. This statement on supply and demand shall include actions taken and projected plans concerning energy research and development, adequacy of refinery capacity and transportation systems, the development of synthetic fuel plants, leasing on the Federal lands including the Outer Continental Shelf, the establishment of strategic reserves, and agreements with other nations on the security and expansion of fuel supply.

(e) The President is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this section.

(f) The President may delegate all or any portion of the authority granted under this Act of the head of any Federal agency he deems appropriate.

(g) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

Mr. PASTORE. All I am doing is pursuing the same idea in this bill. This is no deviation from what the Senate has already agreed to, and I think it is merely a question of our insisting, not that we want more than our share, but that we want our share, and we want the administration to take into account the fact that we do have an inadequacy of transportation, which is, of course, a very serious and vital matter.

For that reason, Mr. President, I would hope that both the manager and the ranking Republican member of the committee will accept the amendment.

My amendment is cosponsored by Senators Jackson, Ribicoff, Inouye, and Kennedy, and I ask that their names be shown as cosponsors of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I commend the distinguished Senator for wanting to see that we do have equitable distribution of products throughout the country. I think that is the desire of everyone, and would be the desire of the administration. Would the Senator agree, on line 4 of his amendment, where it says, "The President shall insure," if the Senator will permit, to inserting the additional language there "to the extent practicable?" In other words, he cannot insure it unless it is practicable; so would the Senator agree to that addition?

Mr. PASTORE. Well, of course, equity is a matter of justice, and I do not think you can shred it, shrink it, or contract it. I mean all we are

saying here is the President shall insure that all regions of the State and Nation shall share available fuel supplies in an equitable manner. That leaves it up to him to determine what is equitable.

Mr. FANNIN. That is right. That is why I say "to the extent practicable" would be in order, because he does not have the power or the ability to just wave a wand and say, "This is going to be done." He can do it to the greatest extent practicable.

I would certainly support the Senator's amendment on that basis. I do feel he has a good and equitable amendment, but I feel those words would give the President the thoughts of Congress—

Mr. PASTORE. I will tell you how I would amend it: "Shall strive to insure."

Mr. FANNIN. Shall strive to insure.

Mr. PASTORE. I will buy that.

Mr. FANNIN. That will take care of it.

Mr. PASTORE. All right.

Mr. President, I so modify my amendment.

The ACTING PRESIDENT pro tempore (Mr. Metcalf). The Senator has the right to modify his amendment. The amendment is so modified.

Mr. JACKSON. Mr. President, being a cosponsor of the amendment, I want to commend the Senator from Rhode Island for bringing the amendment to the attention of the Senate. We are dealing with a complicated problem here. There is a unique and special problem in New England. Likewise, in areas of the Middle West, we face some situations in which there are special problems by reason of logistics, transportation, and other considerations. I believe that this will be a helpful policy directive to the President, and I join the Senator in sponsoring the amendment and hope that the Senate will agree to it.

Mr. BELLMON. Mr. President, will the Senator from Rhode Island yield for a question?

Mr. PASTORE. I yield.

Mr. BELLMON. I was surprised, in the Senator's opening remarks when he called attention to the fact that over the years New England has been trying to get oil imports ended. I wonder whether the Senator realizes that without the oil import program the domestic petroleum industry would probably have been in an extremely sick condition. It is already sick enough. Without the oil import program, present production of 11 million barrels of oil a day from domestic sources, which is now all we have, would be far less than that.

Mr. PASTORE. I do not see why we cannot have the best of two worlds. We did not conserve our oil. We expended it in Vietnam. We expended it all over Europe. We gave it to the Japanese. We exported our oil. We took it from our reserves. There has been neglect. I repeat, there has been neglect. We should have taken care of this problem a long, long, long time ago. I have always maintained that to justify it on the ground it was being done for military security purposes was no argument, that there was no concept more fallacious than that. If we had left it in the ground 10 years ago, it would be there today. But, we pumped it out and pumped it out and pumped it out and gave it to everyone all over the world. Especially did we do that at the time of the Suez crisis when we became responsible to make sure that Europe got our oil because of the policy adopted and promulgated by John

Foster Dulles. That is one of the things I said over 10 years ago would come back to haunt us. We are being haunted today by it. Here I am, being told by the President—and it is irrefutable—that Rhode Island will have a shortfall of 48 percent. They have taken out naval installations in my State. They have thrown more than 19,000 people out of work.

Now what are we doing?

We will suffocate and smother factories because of the 48-percent deficiency in oil. Our factories may close and workers put out in the street.

Surely, I want to explore for oil. That is why we gave them the 22½-percent oil depletion allowance to explore. But that was not enough. That was never enough.

Mr. BELLMON. That is the truth.

Mr. PASTORE. Mr. President, you tell me one big oil producer in this country that went broke in the past 10 years and I will give you the proper answer to the question.

Mr. BELLMON. I can give the Senator from Rhode Island a list as long as his arm of the independent producers who have gone broke in this country because of bad economics in the petroleum industry. But the point I want to make is that this country still has enough fossil fuel in the ground to last us for hundreds of years. It is not any good if we are not in the position of being able to produce it in this emergency. We must have it if we depend on Middle East oil. That is the problem. That is why New England is getting hurt, because it has been depending on these secure sources. In my State, we are not in so bad a shape as other parts of the country because we have secure supplies.

The lesson to learn from this present crisis is that no part of the country should ever get itself into this position ever again.

Mr. PASTORE. We consume 18 million barrels of oil a day. Insofar as the Middle East is concerned, directly or indirectly, the outlook is 3 million barrels. The fact I am raising here is 3 million against 18 million. Somehow, if we had conserved oil, we would not be talking about rationing today.

I am not being critical of Presidents Nixon or Johnson, or anyone else before them. I am merely saying that it has been a sorrowful policy that this country has indulged in over the past 10 to 15 years and today it has come back to haunt us. It is here haunting us now because we did not bring in the oil from other parts of the world when we could have done so.

That is the reason why some of the big oil boys were throwing all those millions and millions of dollars into the last campaign.

The ACTING PRESIDENT pro tempore (Mr. Metcalf). The question is on agreeing to the amendment of the Senator from Rhode Island (Mr. Pastore) as modified.

Mr. BELLMON. Mr. President, may I have 3 minutes on my own time?

The ACTING PRESIDENT pro tempore. There is no time limitation. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I sympathize with the problem of the Senator from Rhode Island. I do not want any part of the country to go without its share of petroleum, but I could not disagree more

with his conclusion. The problem is not that the country does not have plenty of resources in the ground. The problem is that the economics have been so bad because of the competition from the cheap oil coming in from the Middle East up until the last few months. That oil is much less expensive than from domestic sources, which is about \$7.50 a barrel, whereas oil from the Middle East is \$4.20. But the problem is, because of bad economics, the energy industry simply could not afford to drill for new and expensive wells, or build new coal mines, or produce energy from other resources because of the competition from oil from abroad.

If we allow ourselves to get back into that same position, not just New England but the whole country will suffer.

To me, the valuable lesson to be learned here from the present crisis—and Congress will be making a very serious mistake if it does not learn from it—is that we have available in the country plenty of supplies of fossil fuel. What we have to do is not just to take emergency measures such as the one now contemplated but to look at the basic cause of this Nation's energy insufficiencies.

The basic cause is that we have not had proper economic incentives to go ahead and further develop our natural resources. I was a member of the Committee on Interior and Insular Affairs up until my colleague was put on that committee and I heard the Secretary of the Interior testify that we had available enough coal, oil shale, crude oil, and gas in the ground to last us as much as 500 years.

The whole problem is to work out a system of economics to make it available for us to use now.

To me, the present crisis is a great opportunity for Congress to work out ways to solve the problem permanently. Congress will make a great mistake if it starts now with these emergency and temporary measures.

Mr. BARTLETT. Mr. President, I should like to commend my colleague from Oklahoma. It certainly is a very apparent fact that conservation of energy by not developing it insures it cannot be used except far in the future when development takes place.

I should like to ask the Senator from Rhode Island a question about his amendment. As I understood the language, the key phrase in it is equitable distribution for everyone in the country. Is that correct?

Mr. PASTORE. That is correct, also taking into account certain circumstances where the policy is promulgated that because of lack of transportation a certain inequity will be worked on the New England States, so that we are asking the President to give that special consideration. There is no penalty. It is a sensible step.

Mr. BELLMON. I hesitate to dwell on it, but I wonder whether the Senator realizes how long it takes to find and develop a new oilfield?

Mr. PASTORE. It takes a long time. I am not questioning that. I want to encourage the oil industry to explore and explore and explore. All I am saying is that there was a time in our history when we could have bought a lot of oil from the Middle East and we did not do so because of our policy. Now we are suffering, because we cannot buy that oil. It seems that when we could buy it, we did not want it, and when we cannot buy it, we want it.

That is what I am saying is wrong about our policy, and that is all I have said.

I am not blaming one administration or another. I had been working on this subject long before the Senator from Oklahoma even came to the Senate. It has been a constant struggle, and we could never get a receptive ear. Here it is. I said on the floor of the Senate 15 years ago that it was going to happen. Now it has happened.

Mr. BELLMON. Mr. President, the point I should like to make is that there is no way to get these oilfields, these reserves, these coal mines developed until there is a market for them. Now that the market is here, it is going to take us years to do the job that should have been done years ago and would have been done if the economic incentive had been there. We are going to make a mistake if we try to solve our problem by some rationing or emergency distribution system and do not get to the root problem, which is that we have to get greater production from our domestic resources.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Rhode Island, as modified.

The amendment, as modified, was agreed to. **[Sec. 203(f).]**

Mr. HASKELL. Mr. President, I ask the distinguished Senator from Washington to have my name added as a cosponsor of the bill.

Mr. JACKSON. Mr. President, I ask unanimous consent that the name of the junior Senator from Colorado be added as a cosponsor of the pending measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 658

Mr. HASKELL. Mr. President, I call up my amendment No. 658, offered for myself and the Senator from Florida (Mr. Chiles). The amendment is printed.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows: **[Sec. 203(e)]**

On page 18, strike lines 15 through 18 and insert the following:

(e) The President will direct implementation of:

(1) gasoline and fuel oil rationing and energy conservation measures related thereto not later than January 15, 1974; and

(2) those rationing and energy conservation measures related thereto contained in the plans formulated according to subsection (b) (1) of this section as needed to achieve the purposes of this Act.

Mr. HASKELL. Mr. President, I ask that the amendment be modified on line 2 by striking the words—

The ACTING PRESIDENT pro tempore. The clerk will state the modification. The Senator has a right to modify his amendment.

The assistant legislative clerk read as follows:

On line 2, after the word "gasoline", strike the words "and fuel oil".

Mr. HASKELL. Mr. President, the purpose of my modification is to eliminate fuel oil from the amendment. Fuel oil is covered under the

mandatory allocation bill, the conference report having been agreed to yesterday.

The thrust of my amendment, as modified, is to require the executive branch of our Government to have gasoline rationing in effect not later than January 15, 1974. Unless this amendment is adopted, it is my opinion that the bill as reported from the Interior Committee merely grants discretion as to whether rationing will be implemented. I admit that it is ambiguous, but I read the bill as simply requiring the President to implement a program of rationing of scarce fuels. It does not say when the program should take effect, and it does not specify what scarce fuels should be included.

Mr. President, I realize that the concept of rationing is repugnant to all the American people, and it certainly is to me, but we must simply face the facts. For some time now, our so-called energy experts have predicted short falls of between 100,000 and 300,000 barrels per day during the coming winter.

A number of factors must be taken into account when postulating and estimating how devastating these shortages will be. What will the temperature range be? What is the nature of voluntary energy conservation measures? What is the output of domestic and foreign refineries? But from the jumble of statistics, all have concluded that we will have shortages; the shortages will be extreme in certain regions of our country. The distinguished Senator from Rhode Island has pointed out the New England problem, and I would point out that in Colorado last winter we had shortages of fuel oil, and this summer we had shortages of gasoline.

We must do something about the situation. The Mideast crisis and subsequent Arab refusal to export oil and refined products to the United States have made the situation even more grim. Again, we can take our pick among the various calculations as to how serious the consequences will be.

Some public estimates indicate that the shortage as a result of the cutoff of Arab oil will amount to 2 to 3 million barrels a day, or from 11 to 18 percent of our consumption. Realistic calculations are much worse.

The Department of the Interior had previously anticipated import requirements would rise from our current level of 6.5 million barrels a day to 8.4 million barrels a day in the first quarter of 1974. Virtually all of that increase was expected to be supplied by the Mideast. This increased import demand means that we can expect an additional shortage of 10 or 11 percent, raising the total short fall to somewhere between 20 to 30 percent of our estimated consumption. These figures dictate the necessity of rationing. It is that simple.

I hope that my colleagues will agree that the Senate has no other responsible course of action. Executive inaction has led us this far, and we cannot allow that inaction to continue.

One example of Executive inaction in this area was the President's refusal to accept a report of his own Cabinet Task Force on Oil Import Controls. If he had accepted it, we might not be in the situation we are in today. That task force sent its report to the President in mid-January 1970. It recommended the substitution of a tariff system for the existing quota plan and free access of Canadian oil into the

United States. The major integrated oil companies and the independent domestic producers of crude oil strongly opposed the task force recommendations. The President ducked the issue and postponed a decision.

Let me cite another example of Executive inaction. The Senate adopted an amendment to the Economic Stabilization Act, authorizing the President to allocate petroleum products. The amendment was adopted on March 19 of this year. The bill was signed April 30 of this year. The Executive did nothing. Therefore, we in the Senate and House of Representatives were forced to pass a mandatory oil allocation program to direct the Executive to do something. The conference report on that particular measure was adopted yesterday.

These are just two examples of the past history of complete inaction by the Executive. I shall not further belabor the point.

But we must not delude ourselves into believing that by giving the President discretionary authority, we are coping with the problem. The only way in which we can provide the American people with anything resembling equitable treatment in connection with the shortage is by my amendment.

This is a time for decision. I know that the Senate intends to do what it can to provide a long-range solution of the problem. I call attention to the distinguished chairman's bill in the Committee on Interior and Insular Affairs, S. 1283, that would create a massive research and development program for new energy sources. The bill was introduced at the beginning of this session. I also call attention to the fact that the distinguished chairman of the Interior Committee created a Special Subcommittee on Integrated Oil Operations, of which I am fortunate to be the chairman.

The subcommittee plans to begin hearings later this month to determine whether the industry which produces the fuel which runs our country is truly competitive and acting in a manner which best serves the interests of the American people. Until some of the long-range solutions are reached, however, we must face reality. Unfortunately, gas rationing is inevitable. Chief administration spokesmen have indicated they believe it is inevitable by spring.

If we do not implement rationing by a date certain, the inevitable will happen, the decision will be delayed, shortages will worsen, people will be out of work, schools and hospitals will be forced to shut down, and our Nation will be crippled.

I urge my colleagues to support the amendment.

Mr. President, I request the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is not a sufficient second.

Mr. FANNIN. In the report the committee did provide that we were in favor of some stipulation in accordance with what the Senator has offered. But I think the Senator recalls that we did want flexibility. We wanted the President to be able to act at the time that would be most advantageous. I think the Senator realizes that there is a problem when we say "by a certain date," and so the public realizes this is going into effect. I bring that to the attention of the Senator because many people would take advantage of the situation to store gasoline, sometimes in a very hazardous manner. I have had calls from

people who say, "If you think rationing is going into effect, I want to store gasoline." The Senator realizes that, if gasoline is stored in the back of a car, it is hazardous, and it is hazardous if it is stored in a can or in a bottle.

I am concerned about the words "by a certain date." I am sure the President will take action at the proper time, but it is unwise to stipulate such a date in the bill.

I agree it should be done from the standpoint of alerting Members of Congress. It is in the report language. Does the Senator feel it is necessary to set a date certain? Of course, he used the words "by that time," but then we do face the possibility of hoarding and perhaps the dangerous handling of a commodity that we know is in short supply. We could create problems rather than solve problems.

Mr. HASKELL. I would respond to my distinguished colleague from Arizona by saying that we must face up to the facts and we must set a definite time for implementation of rationing.

Mr. JACKSON. Mr. President, will the Senator yield for the purpose of getting the yeas and nays?

Mr. HASKELL. Certainly.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered on the Haskell amendment.

Mr. HASKELL. Mr. President, I would like to respond to the Senator from Arizona. The Senator will recall that at the end of the markup session on this bill, this Senator posed the question whether this made mandatory the rationing of gasoline which is inevitably going to come. The Senator probably will recall that the chairman felt it was the intent of the bill, that rationing will be mandatory. The chairman stated the President will be forced to ration gas. The chief counsel of the Interior Committee said he thought the language could be read either way.

I read the language and I believe as the bill now stands that whether to ration would be left to the President's discretion.

I do not like to have people storing dangerous substances. I agree with the Senator on that. But it is a matter of balancing interests, and I find the Executive seems to be unable to grab hold of this entire energy problem and to do something. For that reason I feel we would be doing a futile act in the Senate today should we not state that action will take place not later than a date certain.

To answer my distinguished colleague further, this problem has been discussed for many months. I would hope that plans are already available on the desks in the executive branch and that they would not have to wait until January 15 to be able to impose rationing. But if they have not been doing any planning this gives them plenty of time.

Mr. FANNIN. I agree with the Senator's intentions and I know they are very sincere. I am talking about the practicality of announcing that by a certain date this is going to take place. I question whether we have all the facts to make that decision today. As the Senator eloquently illustrated, we have some problems in that regard. We do not know what is going to happen in the Middle East. We do not know what the weather will be. We have been very fortunate this winter as far as degree days are concerned. In the month of October the degree

days were over by 30 or 40 percent on a national average. This is something we cannot ascertain, although we can make predictions.

I am not in disagreement with the wishes of the Senator in this regard, but I question whether it is wise for us to provide this in the legislation. It is covered adequately in the report and I am just afraid that if we publicize that on a certain date this program must take effect, we will create a greater problem than we avert.

Mr. HASKELL. I would further respond to my friend from Arizona that to be sure we do not have the exact figures on shortages and, indeed, we have conflicting figures on shortages; but all the figures we do have are overwhelming. They seem to escalate each day.

For example, Mr. Charles Dibona in the Office of Energy Policy predicted on October 12 a shortage of no more than 1.2 million barrels a day. On October 20 he raised that figure to 1.6 million barrels a day. Mr. Duke Ligon who is Director of the Office of Oil and Gas, made an estimate of 2 million barrels a day and on October 30 raised his own figure to between 2 and 2.5 million barrels a day. Dr. Kissinger has estimated to the House Foreign Affairs Committee and to the Senate Foreign Relations Committee that we will have a total shortage of 3 million barrels a day.

Basically even if, as hoped, the Middle East crisis is solved, we will still have a shortfall.

We still have a shortfall of at least 10 to 15 percent. It is hard to be precise.

As far as setting a date certain goes, I am afraid that is the only way to do it. We must say "not later than January 15." Hopefully the Executive will do it far earlier than January 15, but that date gives adequate planning time.

Mr. FANNIN. I am sure the Senator is aware that studies are going forward; that Secretary of the Treasury Shultz has made a statement within the last couple of days as to his feeling in this matter, advising us to move with caution. William Simon, of the Treasury Department, has also advised that we should not hurriedly adopt a position. Herbert Stein has also made a statement in that regard.

All I am saying is I hope that we will consider the facts; and not take unnecessary action that may result in the boarding of the product.

As the Senator well knows, in our part of the country, in Arizona, Colorado, New Mexico, and the West, many ranchers can store thousands upon thousands of gallons of gasoline, which could result in a further shortage, because it would not be for immediate utilization but would be for utilization perhaps 6 months from now. That is the problem we face in this legislation.

Mr. HASKELL. Before I respond, may I say that some of this hoarding has already taken place. My daughter, who drove here from Colorado, put two 5-gallon gasoline cans in the back of her car even against my best advice. So I would say it has started already.

To get to the substance of the Senator's question, the statements of the spokesmen he mentioned bother me. Some in the administration say we are going to have gas rationing. Others in the administration suggest that we raise the price of gas, by taxation, to \$1 per gallon. This to me would be abhorrent. There is no question that if the price of gas were raised high enough, we would have rationing. There is

no question about that, but those who would be most drastically affected would be not only the low income groups, but the middle income groups. This is inequitable, in my humble opinion, in the extreme.

It is for that reason that I would hate to see an inequitable form of taxation. Beyond that, I would hate to see what appears to be continuous indecision carried on.

It is for those reasons that, regrettably, I feel it is necessary to set a date "not later than."

Mr. FANNIN. I do not want to continue discussing the same subject over and over again. I do not want to be repetitious, but I do want to advise the Senator that, from what I have read, none of the members of the administration I have mentioned have said that we are not going to have rationing. They just advise us to proceed with caution and not jump to conclusions; that everything will be done to assure that we do not need rationing before a certain time. They do not have a date in mind, but when the time comes, we would go into that. However, until that time comes, we should not have the extra burden on the economy and the extra dislocations that would be necessitated by the rationing program.

If I though this would assist in solving the energy problem, I would be with him 100 percent. It may be that we will need to put rationing into effect soon, as is provided in the amendment. As the Senator knows, it could be done tomorrow or in a month. I just question the advisability of providing a date certain as is mentioned in his amendment.

Mr. HASKELL. I think the Senator from Arizona and the Senator from Colorado have articulated their differences probably long enough. I do want to stress, however, that my amendment says "not later than."

I yield for a question to the Senator from Oklahoma, if he wants to ask a question.

Mr. BARTLETT. Mr. President, I would like to make an observation and then ask a question.

Mr. HASKELL. Certainly.

Mr. BARTLETT. First, my observation is that this administration has faced up to the problem. The Senator seems to contend that they have been lackadaisical, that they do not have a hold on the shortage problem.

I point out that last summer in our State and other States there was a voluntary allocation program for various fuels in agriculture. We had a record wheat crop. I am not familiar with any losses, although there were delays in harvesting that record crop, from this voluntary allocation program of diesel fuel and gasoline in the areas of agriculture, particularly wheat.

Also, we did not have a rationing program last summer in gasoline, and although there were some inconveniences, the American public was able to drive around the country freely and, to my knowledge, make trips across the country.

More recently, the administration has taken on a mandatory allocation program or rationing program in propane and fuel oil. I am advised by those in my State who are in the distributing business of propane and other products related thereto that there will be adequate

supplies this winter, giving every indication that their programs have been working.

I believe I am correct that the Senator from Colorado favored a mandatory allocation program of energy for last summer and this fall. In other words, he wanted it to go into effect earlier. So my question, now that we have gotten up to this point—I recognize the shortages in the future will be much greater than they have been for the past summer—does the Senator now still wish, if my supposition is correct, that we had adopted mandatory allocation programs and forced them on the President for this past summer?

Mr. HASKELL. Well, that is history, Senator. In all probability, we would have been wise—this is 20-20 hindsight—to have done so. Retail gasoline establishments closed in my State for lack of gas. People were unable to get it. If we had had the proper figures, I think we might have avoided it.

For example, the Department of the Interior has estimated that the increased demand for imports in the first quarter of the coming year will go from 6.5 million barrels to 8.4 million barrels a day. We are not going to get that increased demand, even if the Middle East settles. From the way the Middle East countries are now setting up their exports, we are going to have an additional shortfall of approximately 2 to 3 million additional barrels a day.

In the light of 20-20 hindsight, I would probably say the we would have been very well advised in this country to have started the allocation of fuel and made it mandatory—I am referring to fuel oil—and that we probably would have been well advised to go into some form of a rationing system in the midsummer.

Mr. BARTLETT. I was referring, in the history the Senator referred to, to diesel fuels as well as propane and fuel oils. I would be surprised that the Senator would want to look on that history, which is certainly a glimpse into the future also, and would want to have prepared for his citizens of Colorado and other citizens of this country a rationing program which would have reduced the supplies to a much further extent than the few dislocations that occurred because of a voluntary system of allocation.

The point I am trying to make is that I think in mandating the President and tying his hands on a program that Congress has not detailed at all, it is unfair to him by reason of removing this discretion.

I would like to state one further point, if I may, and then ask the Senator a question.

Is Congress facing up to its responsibility when it will not write a detailed bill for allocation and rationing which the President would be required to put into effect, rather than doing what we are doing, mandating him to put on a program to which we are not really a party and denying him any discretion in starting, stopping, implementing, increasing, or lessening the rationing program on the people?

I think the people deserve more than that. Why should we want to deny this responsibility that clearly proved its usefulness last year?

Mr. HASKELL. Mr. President, the Senator asks why we do not write a detailed rationing program into law. Then the Senator asks why we do not give the President discretion. We are doing that under my amendment. We cannot write a detailed rationing program into law that

would tie the hands of a regulatory agency and allow no discretion whatever to the regulatory agency.

In the second place, my amendment says that a program will be adopted at a certain time. We know that we have at least a 10 to 18 percent shortfall. We may have a 20 to 30 percent shortfall. I would suggest that unless we say that something must be done about it now, we will be doing the country a tremendous disservice because the administration is not addressing itself to the problem.

On the Senate floor the other day the Senator from South Carolina (Mr. Hollings) ticked off the number of energy czars that we had under the present administration. He totaled up eight in about 8 months, I believe.

I feel the administration is not addressing the energy problem or cannot face up to it. We in Congress must do so.

Mr. JACKSON. Mr. President, I think we can come to the heart of this problem. We simply did not expect, in all candor, a division in the administration on the question of rationing. There is one group that wants to put a heavy tax on fuel oil, whether heating oil or gasoline.

I am personally opposed to that course of action. I do not think that we ought to be able to buy our way. We should have an equitable gas rationing system. I believe that the administration sincerely wants to move forward on rationing. However, Dr. Stein, I believe, indicated yesterday in Europe, that the answer is to put on a big tax. I believe that Secretary Morton and Governor Love have said that we have gas rationing.

I believe that Congress ought to be responsive in the matter. And we will be able to give a signal by this vote today to the administration that we are going forward with gas rationing.

I hope that after this vote the White House will issue an order—they have this authority now under the Defense Production Act—to start printing the rationing tickets or to get the plan moving.

Every day that we lose, every day that is lost in failing to move to implement the gas rationing program and to go ahead with the 50-miles-an-hour speed limit, we lose 1 million barrels of petroleum products a day that could be saved. That is one-third of the total shortage we are talking about.

It seems to me that on every ground we ought to approve the Haskell amendment.

I would point out that in the committee report, the third paragraph on page 18 reads:

It is the committee's belief and finding rationing of gasoline, immediately and without delay, is essential to a nationwide energy conservation program, and to the national interest.

I believe the Haskell amendment will be helpful to the President. I believe that Congress will then be sharing its responsibility. I think that we all have that responsibility to share with the President. Now, the January 15 date is one by which we get some urgency and priority behind the effort. Obviously if there is some emergency that they cannot implement by that date, the roof is not going to fall down and there is no violation of the law.

This is the date that we are trying to say should be the date for the program to start. This merely corroborates what Governor Love has

said, in effect. He said January. And I believe that Secretary Morton has said the same thing.

I believe, further, that in the light of the controversy that has started now over putting a heavy tax on gasoline, Congress ought to speak out. And I say that if we vote for the Haskell amendment, we are making it clear that we urge in an unequivocal and rational way that this be done rather than urge that a heavy tax approach should be used.

Second, we are saying that they should get busy and set up a procedure and get the machinery going and not waste any further time. Nothing has been done, Mr. President.

I must say that we have been approaching this problem on a bipartisan basis. The Senator from Oklahoma and his colleagues have been extremely helpful. We had a hearing in executive session. And I believe on the second day I asked about a contingency plan. There is not any. The committee worked it out on a bipartisan basis. We are together here. We are ready to share responsibility with the President. I believe that we should do it in this way.

Mr. AIKEN. Mr. President. I was just reading **section 203** more carefully. I would like to ask whether recreation is considered a "vital service" and whether the use of energy by our ski areas, of which we have so many in New England, would be considered an "unnecessary energy consumption" in the event of shortage. Would recreation be considered a "vital service" and would the use of energy by our ski areas be considered an "unnecessary energy consumption" in the event of a shortage?

This must have been given some consideration because I am already getting protests from people who never had skis on their feet. They are protesting and writing about the use of energy for the manufacture of artificial snow where there does not happen to be enough on the ski slope.

Mr. JACKSON. Mr. President, I will try to respond the best I can in a short period of time.

On page 17 of the bill we will find the directives that we have issued, starting on line 6. It read: **[Sec. 203(b)(2)]**

(2) measures capable of reducing energy consumption in the affected area by no less than 10 per centum with ten days, and by no less than 25 per centum within four weeks after implementation. Such measures shall include, but are not limited to: transportation control plans; restrictions against the use of fuel or energy for nonessential uses such as lighted advertising and recreational activities; . . .

Mr. AIKEN. Mr. President, that is a directive, is it not?

Mr. JACKSON. I understand. However, the point is that we leave the discretion as to how they reach that goal of 25-percent saving to the States. This is set out as areas to which attention should be paid.

It does not mean that if a State reaches the goal, here, of a 25-percent saving in 4 weeks, it must mean a restriction of supply to specific areas. The goal is to save 25 percent, and obviously we have listed areas where we feel there could be savings in a State. I would say this, as the author of the bill, to try to give my intent: for a State that is primarily recreational, obviously, there must be consideration given to the economic impact of that contribution to the State should there be a drastic cutback.

Mr. AIKEN. There is a tremendous winter recreation business in the Northeast.

Mr. JACKSON. I understand that.

Mr. AIKEN. That was built up largely during and following World War II, when it was found that it required so much energy to get to the Sierras, for instance, and they could come to New England and New York, and even Pennsylvania and Virginia, so much more easily, taking so much less energy to get to these Eastern areas.

I was wondering, if this is applied, whether it would apply to all equally, even the distant recreation areas where they have to drive their cars 600 or 800 miles to get there, or the ones where they can get there in half an hour or, at the most, 3 or 4 hours.

Mr. JACKSON. I think Senators will find that people who had planned to drive to recreational areas will have to get there by other means, by buses, trains, and planes if such transportation is available.

We cannot legislate in that area, because we are trying to delegate to the ration boards the authority to deal with the local situations.

Obviously, people are going to curtail some of their previously arranged plans for recreation by reason of the shortages. They will have to work out their own system of priorities.

Let me just finish my statement in connection with what I read into the Record from the bill, on page 17.

In section 203, starting on line 14, when we talk about a nationwide emergency energy rationing and conservation program in the Nation, we continue by saying:

Such program shall assure, insofar as is practicable, that all vital services will be maintained and that unnecessary energy consumption will be curtailed.

This is the preamble to what I read at the outset. So there is an area of discretion here that can properly be exercised, I would say, where it is a vital part of the economy of the area.

If the Senator asks: "Are we going to arrange for such rationing tickets so people can drive 400 miles to go skiing or for any other such activity," my answer would be that obviously that is not possible or feasible or equitable.

Mr. AIKEN. But that is how the ski industry got built up to such tremendous proportions in the East, because it took too much energy, to get to Sun Valley. Of course, Sun Valley has recouped since then, I believe but for a while they were losing their business to the nearby areas of the East.

Mr. AIKEN. I think the needs of recreation is something that should concern us very much. I suppose this bill also applies to motorboats and snowmobiles.

Mr. JACKSON. In responding to the Senator, I can only say that what will happen here is that individuals—and we have a lot of skiing in the State of Washington—individuals who want to ski in the winter or individuals who want to go to Florida in the winter and set up plans for driving to a lot of these places are going to be using buses or other means. I do not know how else we can handle this. We have vested discretion in the local authorities.

Let me read from the report again. In our effort to try to be—

Mr. HASKELL. If I might comment at that point—

Mr. JACKSON. Let me read these three or four lines here. On page 18 of the committee report, reading from the top of the page:

Section 203 confers broad authority and wide discretion upon the Government to order actions with potentially enormous social and economic impact. In the long run, the program envisioned by section 203 will be publicly acceptable only to the extent that the programs are designed and carried out in a way that is fair and creates a reasonable distribution of burdens. In these circumstances, there must be some flexibility to permit adjustments to deal with individual circumstances and some form of procedure by which these adjustments can be made.

And it goes on. I think we have made very clear here that we have not undertaken, in this proposed statute, to provide in statutory detail how we are going to do this and that in an economy and a way of life as complex as ours.

Mr. AIKEN. But the Haskell amendment requires the President to come up with rather strict rules for implementing the legislation, does it not?

Mr. JACKSON. It directs the President—

Mr. AIKEN. It requires it whether we need it or not.

Mr. JACKSON. There is not any dispute that we need it. The administration has two positions on it: We know that we have to curtail it; do we do it by taxing or by rationing? That is what we are talking about.

Governor Love and Secretary Morton made it clear that it should be done by rationing, and said it is inevitable and must be done. Dr. Stein, the Chairman of the Council on Economic Advisers, I believe in Europe yesterday, announced that he wanted to propose the tax route; that is, a heavy tax on gasoline.

Mr. AIKEN. That soaks the poor fellow most, the one who has to drive many miles to work.

Mr. JACKSON. Yes; I am opposed to the tax approach. That means if you have the money, you can buy your ticket.

Mr. AIKEN. If you are rich enough, you can have all you want.

Mr. JACKSON. Each person ought to be treated equitably, in my judgment, rich and poor alike, and that is why I support the rationing approach. That is the basic question before the Senate here. It does not change at all, I will say to the Senator from Vermont, what we have been talking about in this colloquy. It does not change that at all, because rationing is contemplated. It is a question of when they are really going to move on it. As I have pointed out, we lose 750,000 barrels every day that rationing is not in effect; that is what we are talking about.

Mr. HASKELL. I would like to add to the statement of the Senator from Vermont that in Colorado we have an identical problem with that in Vermont. We have ski areas and a large ski industry, and an identical problem, but I would hate to try to spell out in the statute how we handle problems all over the country. This is my only thought.

Mr. HANSEN. Mr. President, I know that only because the distinguished chairman of the committee (Mr. Jackson) probably did not get the opportunity to read the full story would he have made the statement he did. I know how accurate he normally is.

I would just call attention to the Washington Post front page story entitled "Administration Split on Energy Crisis." I would hope that I might have the attention of the Senator from Washington on this

one particular story, because he spoke about Mr. Stein, and I believe the headline and the first paragraph or two are rather deceptive, in that I got the same impression he did when I first started to read the story, that Stein was for increasing taxes. Mr. Stein is not. The story goes on to say:

Stein came down on the side of letting prices rise, both as an incentive for greater production of fuels and as a way to discourage consumption.

He thus joined the anti-rationing ranks within the administration, which now include Treasury Secretary George P. Shultz, Deputy Treasury Secretary William E. Simon and Commerce Secretary Dent, all of whom regard coupon rationing as an administrative nightmare which should be resisted.

Ranged against this group of "freemarket" men . . .

And I emphasize those words "free market men" because these people all believe the one thing we have not done that we should do is to do something about supply. They argue, and I think persuasively, that we will not cure any problem until we do something about supply.

The story goes on to say:

. . . are the President's energy adviser, John A. Love, Interior Secretary Rogers C. B. Morton and many technicians working within the government, who believe that rationing is inevitable and that work to get it going should begin as soon as possible.

This division within the Nixon administration will have to be settled by the President himself. For the moment, he is said to uphold the Shultz view that rationing should not be ruled out, but should be relied on only "as a last resort."

Mr. JACKSON. I appreciate having the Senator's comments. I think it does point up, however, the need for some signal from Congress one way or the other. We can vote it up or down on that point. I did say that the administration was divided. I think that the administration should say specifically what it will do.

My point is simple: Every day we delay, we lose valuable time on saving fuel. That is the point.

All I want to say is that if they are opposed to rationing, we recall that when we had the administration people in on the mark-up, there was no indication they were opposed to rationing at all, to my knowledge. The clear implication has been that one of us likes it and we want to find a way to avoid it; but by procrastinating, Mr. President, we are losing millions of barrels of oil that could be saved. That is my point.

Mr. HANSEN. What the Senator from Washington has just said is right, but I wanted to point out specifically that Mr. Stein did not say what the Senator from Washington had thought he said. He came down hard on the side of letting price do two jobs for America in this time of crisis. One is to let increased costs of fuel and energy be a deterrent to overuse and waste. We can all agree that however we accomplish that objective, it would be worthwhile.

There are those who say to do it by rationing, and there are others who also say to do it by price. Add to that the point Mr. Stein gave, that if it is done by price we will have the incentive that, so far, has been denied the oil industry, that segment of it that has accounted for 80 percent of the discoveries within the continental United States in the lower 48—the independents and the wildcatters who go out and make the discoveries—they have not benefited, despite the widely held impression that many people have that they have profited along with everyone else.

As a matter of fact, the record is that the independents, the people who have found 80 percent of the wells discovered in the United States in the past 10 to 15 years in recent times have been recovering on their total investment—and I would hope Senators might take note of this fact I am about to give them—that this segment of the industry has been realizing a net profit of about 3.5 percent to 6.5 percent.

It is little wonder then that we would find a decline in drilling activities at the same time that we were observing an equally abrupt incline in use of the product. So we wind up, if we compare 1972 with 1956, in finding that drilling activity has dropped off about half in the continental United States while consumption has doubled.

Had we kept even, trying to pace our drilling activity with increased use of fuel and petroleum products and natural gas, we would have been required to make four times the effort we are making now.

So I would say to my distinguished colleague from Washington and my very good friend from Colorado that while there has been broad bipartisan support in trying to come up with the best kind of bill we can devise, there has not been equally unanimous bipartisan support on this issue.

I think it is fair to say that the Republicans, to a man, recognize the merit in letting the free market turn loose and operate, as indeed it will one day. Whether we do it now, next week, next month, or next year, it will operate because we find ourselves today in the anomalous position of importing oil into the United States, selling for twice as much as the domestic producer receives for his oil.

Little wonder then that the domestic industry finds greater opportunity for profitable return on investments in other areas of activity than to continue drilling deeper and more costly wells.

I thank my good friend from Colorado for yielding me this time.

Mr. CHILES. I was trying to understand the proposition my good friend from Wyoming was making, about the "Republicans to a man." Is the Senator saying that the Republicans to a man are opposed to gas rationing at this time?

Mr. HANSEN. I did not say that and did not intend to say it. If the Record shows it, then I misspoke myself.

What I tried to say is that there was bipartisan support on the part of the Committee on Interior and Insular Affairs to try to draft the most workable bill it could come up with.

There certainly is bipartisan conviction that rationing indeed will be resisted. I do not say it is unanimous. There is strong bipartisan conviction, as indicated by the report in the full committee. But I said on the issue of supply that there was no bipartisan unanimity, that this bill addresses itself to all the factors that should be considered as we seek to find better answers for the crisis and the dilemma that now engulfs our entire country.

On this point, I would say it is my conviction and belief there is unanimous opinion on the Republican side, and I would make the prediction that it is shared by some members on the Democratic side of the Committee on Interior and Insular Affairs, that we should address the problem of supply in the context of what price can do to stimulate greater production.

Mr. CHILES. That is what I was trying to get clear. I did not think the Senator from Wyoming would say in the present crisis that we

should just let price solve it. We have a shortage of approximately 3 million barrels a day. Certainly price could take care of that shortage, if we said that whoever could best afford to heat their homes by gas would be able to do it, and those who could not would not be able to do it. That would be one way of taking care of it, but that was not the proposition they were raising, was it?

Mr. HANSEN. I hope that what I said explained the feeling I had. I would say this, that rationing is one way, admittedly a successful way, but a tough way, and can result in injury, damage, and great inconvenience to many people—and I have no doubt, when I make that observation, that it will be adopted—but I say the better way to get the active cooperation of all Americans as we seek to reduce unnecessary use of energy, as we seek to eliminate waste of energy, I suggest that a better way would be to let price play the important role that it could in helping in that effort.

I repeat that I do not think there is any question about whether we are going to have rationing. I am sure we will. But I think it is unfortunate that we do not turn the marketplace forces loose to accomplish two things.

Rationing is not going to help increase supply one bit. Until it becomes profitable for an oilman to drill deeper, more costly wells and to anticipate that he will make a fair return on that effort, on venturing that much capital, he is not going to do it; and the record is very clear that that has been the response of the energy industry.

So I say that we should turn the market forces loose, as was contemplated in the Defense Production Act. What did we do back in World War II days, when most of the young men were out fighting America's battles on foreign battlefields and few helpers were left on the farms and ranches in America? Yet, we knew that we had to have the greatest outpouring of wheat and other agricultural products in our history. The Defense Production Act said, "We will turn America loose by stimulating the inherent desire in people everywhere to make a profit"; so we guaranteed a price for wheat. What happened? We had the greatest wheat crops we have ever had, and we licked the challenge.

I say that with the same basic logic and with reliance upon the laws of supply and demand—we can try to alter them, but do so at our risks—we can achieve our purpose.

Mr. CHILES. As another example of logic in World War II, we rationed gasoline. So we did not turn loose supply and demand and say that price could affect shortages that we had. We had to ration fuel at that time, and that worked effectively during World War II.

Mr. HANSEN. I agree completely with the Senator from Florida. There was also at that time a very compelling and overriding conviction on the part of Americans that not only was it the role of good citizenship to cooperate in this effort, but also that it was a person's patriotic duty. That condition, to some extent, is not in existence today, to the degree it was then.

I am not arguing against rationing. I recognize the facts of life. I am saying that if we want to get to a permanent solution of the crisis, it occurs to me that until we do something about supply, all we are going to be doing is to spread the misery around.

Mr. CHILES. I thank the Senator.

I thank the Senator from Colorado for yielding to me. I join him in supporting his amendment.

I think that in the present crisis, the only way we can assure that people at all levels will be able to have heat this winter, that hospitals will have fuel, and that we will be able to take care of the immediate necessities is to go forward with rationing. Every day we wait now—the picture is on the wall—we see that we are adding to the crisis.

I do not see how we in Congress, if we are going to be responsible, can stick our heads in the sand and say we are going to let the President do it when he wants to; we are going to give him this authority. I heard that about price controls and all kinds of things. We are saying that we are putting the monkey on the President's back, that we want him to take the heat, and that we want to sit back and say that we gave him the authority to do this a long time ago, and we did. We did it in rationing.

I think that now, once we face up to the crisis and the emergency, we should be willing to act. That is exactly what the Senator from Colorado spells out very clearly in his amendment, and I join him in that.

Mr. BARTLETT. Referring to our colloquy about the flexibility in this bill, I agree with the Senator from Colorado, who said that it would not be propitious for Congress to spell out the details of a rationing program because it would deny flexibility to that program. I concur with that very strongly.

Some flexibility is written into this bill, such as on page 18, subparagraph (e) :

The President shall direct immediate implementation of those rationing and conservation measures contained in the plans in this section as needed to achieve the purposes of this Act. **[Sec. 203(a).]**

This was the will of the committee, and I think it is important. But I think it is restrictive on the whole rationing program to bind the President with a particular date and the other provisions of the Senator's amendment.

I believe it would be consistent with the flexibility that is required in rationing—which is a very hard and difficult program at best—that this amendment should be rejected.

Mr. HASKELL. Mr. President, I think the differences as to my amendment have been well articulated, and I would hope—

Mr. FANNIN. We have discussed thoroughly the feelings of the Senator from Colorado. I do not agree that it is advantageous. Nevertheless, I should like to ask this question.

As I understand the Senator's amendment, it would not allow the President to end rationing under any circumstances, other than upon the expiration of the legislation in 1 year. Is that correct?

Mr. HASKELL. Would the Senator mind repeating his question?

Mr. FANNIN. Does the Senator's amendment provide that the President can end rationing, other than when the bill runs out after the 1-year period?

Mr. HASKELL. The bill is merely a 1-year bill.

Mr. FANNIN. I am referring to sometime within the 1-year period. In other words, we cannot look into a crystal ball. We are all very hopeful that the Middle East situation will be settled and that there will

come a time when rationing will not be needed, within this 1-year period.

I agree with the Senator that, from all indications—although we do not have all the facts available—rationing is inevitable. But we should provide that if, by some good stroke of luck or genius, we can provide sufficient fuel—rationing can be terminated. After all, in rationing we cannot save so much that we can store the product that is not utilized, because we do not have the storage capacity. What we have is almost a run-through.

Mr. HASKELL. The President could end the rationing before 1 year runs out. I yield to the Senator from Washington, the author of the bill. I believe the flexibility is there.

Mr. JACKSON. Mr. President, I think it's fair to observe that although the bill's authority is of 1 year's duration there is no specific provision in the bill requiring the ending of any one emergency action.

I would further observe, however, that all the emergency steps that are contemplated by the act are predicated upon a situation involving short supply. When short supply no longer exists, there will be no need for rationing; the President can terminate it.

If Senators will look at line 15, page 18, of the bill, the general thrust of it is contained in the following sentence:

The President shall direct immediate implementation of those rationing and conservation measures contained in the plans in this section as needed to achieve the purposes of this Act.

I will make this a part of the legislative history, and I want it so construed: When there is no longer a need for the particular action taken pursuant to this act, then it can be terminated by the President.

Again, on page 16, **section 203, subsection (b)(1)**, we provide:

(b) The rationing and conservation program provided for in **subsection (a)** shall include the following:

(1) an established priority system and plan, including a program to be implemented without delay, for rationing of scarce fuels quantitatively and qualitatively among distributors and consumers for the duration of the emergency.

The point is that if fuels were no longer scarce they could terminate the action taken.

Mr. HASKELL. I wish to add this point. I would concur with my friend from Washington. I think the thrust of the amendment is to be sure we have gasoline rationing. The reason we have not spelled out a plan, and I think the chairman will agree, is there has to be flexibility. Maybe gasoline will be scarce as we think or maybe it will be less scarce than we think. So we have to have flexibility as far as terminating a program. There is a provision that by concurrent resolution we can terminate the emergency. Am I correct in that?

Mr. FANNIN. If the Senator will yield, I would like to comment further on that point. The distinguished chairman read from the language on page 16 under **section 203(b)(1)**. Then on page 19, it is provided that the rationing and conservation program shall include "rationing for the duration of the emergency."

All I am trying to do is to clarify that the President does have flexibility. We can have shortages in certain types of fuels, certain oils, but still have gasoline available. That is possible. I do not think we are going to have the good fortune to alleviate this problem in a

very short time, but looking ahead 6 or 8 months, maybe we will have a time when rationing of gasoline will not be necessary.

My question is: If that time comes about, is it the Senator's desire in the amendment he has offered that rationing could be ended?

Mr. HASKELL. Certainly. If by some fortuitous unseen series of events we have more than enough petroleum products——

Mr. FANNIN. Not more than enough, but enough.

Mr. HASKELL. Yes. Then, certainly, it would be in the spirit of the legislation that there would no longer be rationing.

Mr. JACKSON. Mr. President, I yield to the Senator from Vermont for a question.

Mr. AIKEN. Mr. President, the distinguished chairman of the committee has referred to **section 203, subsection (b)** which states that: "the rationing and conservation program shall include the following." I wish to call attention to the fact that, then, on page 17, in line 6 the legislation states:

Moreover capable of reducing energy consumption in the affected area by no less than 10 per centum within ten days, and by no less than 25 per centum within four weeks after implementation.

I assume that does not mean that reduction is required, but there shall be measures capable of reducing consumption that much. Am I correct in that assumption?

Mr. JACKSON. I do not understand the question. But first let me say that the Federal Government sets up a plan to try to achieve these goals of 10 percent and 25 percent.

The provision on page 18, line 10, is, of course, to permit the States to carry out the program, to work out their own programs within the context of this plan. If a State failed to implement the plan, the Federal Government then would act.

Mr. AIKEN. As I understand the wording, the Federal Government shall set up a program with measures capable of reducing energy consumption in an affected area by no less than 10 percent within 10 days, and by no less than 25 percent within 4 weeks after implementation. But that does not mean that consumption actually has to be reduced by 10 percent within 10 days or by no less than 25 percent within 4 weeks. The language reads: "Measures capable of reducing energy consumption." But do they have to do it?

Mr. JACKSON. The problem is to set target dates. It is hoped that they can do that by 10 percent within 10 days, and 25 percent within 4 weeks. The problem is that we cannot by legislative fiat achieve something that we do not yet know for sure can be achieved at all. This is a goal, a target.

Mr. AIKEN. We are not sure that it is necessary. It might be that a reduction of 15 percent in 4 weeks would be all that was necessary. Then the States would not be required to reduce it by 25 percent.

Mr. JACKSON. No, it would not be necessary. Everything is predicated on the assumption that we are dealing with a critical shortage. We face a leadtime. If we do not start to act now—we should have acted yesterday—we are going to have bigger and bigger shortfalls which could lead to all kinds of calamities.

Mr. AIKEN. It means that the program shall have measures capable of reducing energy consumption within 4 weeks. But if that is found to be not necessary, it would not be required, would it?

Mr. JACKSON. No, it would not be required. It is a contingency plan. If the Federal Government finds that a State is not making a good-faith effort, is really not doing what it could do to achieve a greater saving, then the Federal Government would move in and take over.

Mr. HASKELL. Mr. President, I think the discussion on the amendment has been full and complete. I suggest that we might proceed to a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado (Mr. Haskell). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. Hollings), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Massachusetts (Mr. Kennedy) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Illinois (Mr. Percy), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

If present and voting, the Senator from Nebraska (Mr. Curtis), and the Senator from Illinois (Mr. Percy) would each vote "nay."

The result was announced—yeas 40, nays 48, as follows:

[No. 482 Leg.]

YEAS—40

Abourezk
Bentsen
Burdick
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Eagleton
Eastland
Fulbright
Gravel
Hart
Haskell

Hathaway
Hughes
Inouye
Jackson
Johnston
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss

Muskie
Nunn
Pastore
Pell
Proxmire
Randolph
Ribicoff
Stennis
Stevenson
Symington
Weicker
Williams

NAYS—48

Aiken	Cotton	Mathias
Allen	Dole	McClure
Bartlett	Domenici	Montoya
Bayh	Dominick	Packwood
Beall	Ervin	Pearson
Bellmon	Fannin	Roth
Bennett	Fong	Schweiker
Bible	Griffin	Scott, Hugh
Biden	Gurney	Scott, William L.
Brock	Hansen	Stafford
Brooke	Hartke	Stevens
Buckley	Hatfield	Taft
Byrd, Harry F., Jr.	Helms	Thurmond
Cannon	Hruska	Tower
Church	Javits	Tunney
Cook	Long	Young

NOT VOTING—12

Baker	Huddleston	Percy
Curtis	Humphrey	Saxbe
Goldwater	Kennedy	Sparkman
Hollings	Nelson	Talmadge

So Mr. Haskell's amendment was rejected.

Mr. HANSEN. Mr. President, I move to reconsider the vote by which amendment No. 658 was rejected.

Mr. McCLURE. I move to lay that motion on that table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the text of an amendment to S. 2589 I am submitting today be printed at the appropriate place in the Record.

The PRESIDING OFFICER. The amendment will be printed in the Record.

The amendment is as follows:

At the end of the bill, add a new title as follows:

TITLE IV—NONRETURNABLE BEVERAGE CONTAINER PROHIBITION ACT

SEC. 401. This title may be cited as the "Nonreturnable Beverage Container Prohibition Act".

FINDINGS AND PURPOSE

SEC. 402. (a) The Congress finds that (1) utilization of returnable beverage containers would result in substantial energy savings, (2) litter composed of beverage containers is a major source of pollution in all areas of this Nation, (3) the collection and disposal of solid waste composed of such cointainers impose a great cost burden upon the States and their political subdivisions, (4) nonreturnable beverage containers on which no refundable money deposit is required from the consumer pose a threat to health, safety, and welfare of individuals and environment in the United States, and (5) such containers, representing as they do a high cost in the form of litter and solid waste management, should be banned from circulation within and among the several States.

(b) It is therefore the purpose of this Act to assist in solving this problem by preventing the use and circulation of the offending types of nonreturnable beverage containers by banning their shipment and sale in interstate commerce.

DEFINITIONS

SEC. 403. For the purpose of this Act the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "returnable beverage container" means a beverage container which—

(A) has a clear indication thereon, either by embossing or by a stamp, label, or other method securely affixed thereto, of the refund value of the container, or is a glass container designed for a beverage and having a brand name permanently marked thereon which on the date of enactment of this Act had a refund value of not less than 5 cents;

(B) has a refund value of not less than 5 cents or, if certified by the Administrator pursuant to section 4, has a refund value of not less than 2 cents; and

(C) is not a metal container so designed and constructed that a part of the container is detachable in opening the container without the aid of a can opener;

(3) "beverage" means beer or any other malt beverage, mineral water, or soda water or a carbonated soft drink of any variety in liquid form and intended for human consumption;

(4) "container" means a bottle, jar, can, or carton of glass, plastic, or metal, or any combination thereof, for use in packaging or marketing any beverage;

(5) "interstate commerce" means (A) commerce between any State or territory and any place outside thereof, and (B) commerce within the District of Columbia or within any other territory not organized with a legislative body;

(6) "territory" means any territory or possession of the United States, including the District of Columbia and excluding the Canal Zone.

CERTIFICATION

SEC. 404. (a) (1) To promote the use of returnable beverage containers of uniform design, and to facilitate the return of containers to manufacturers for reuse as a beverage container, the Administrator may, upon application in accordance with regulations established by the Administrator not later than ninety days after the date of enactment of this Act, certify beverage containers which satisfy the requirements of this section.

(2) A beverage container may be certified if—

(A) it is reusable as a beverage container by more than one beverage manufacturer or bottler in the ordinary course of business; and

(B) more than one beverage manufacturer or bottler will in the ordinary course of business accept the beverage container for reuse as a beverage container and pay the refund value of the container.

(3) The Administrator may by regulation establish appropriate liquid capacities and shapes for beverage containers to be certified or decertified in accordance with the purposes set forth in subsection (1) of this section.

(4) A beverage container shall not be certified under this section if by reason of its shape or design, or by reason of words or symbols permanently inscribed thereon, whether by engraving, embossing, painting, or other permanent method, it is reusable as a beverage container in the ordinary course of business only by a manufacturer or bottler of a beverage sold under a specific brand name.

(b) (1) Unless an application for certification under this section is denied by the Administrator within sixty days after the filing of the application in accordance with regulations of the Administrator, the beverage container shall be deemed certified.

(2) The Administrator may review at any time certification of a beverage container. If after such review, with written notice and hearing afforded to the applicant for certification under this section, the Administrator determines the container is no longer qualified for certification, he shall withdraw certification.

(3) Withdrawal of certification shall be effective not less than thirty days after written notice to such applicant and to all known manufacturers and bottlers using such containers.

PROHIBITION

SEC. 405. (a) No person shall manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce any beverage container other than a returnable beverage container.

(b) Whoever violates subsection (a) of this section shall be fined not more than \$1,000, or imprisoned for not more than six months, or both.

REGULATIONS

SEC. 406. The Administrator shall establish such regulations as are necessary for the purpose of this Act.

EFFECTIVE DATE

SEC. 407. The provisions of this Act shall be effective on the date of enactment of this Act, except that section 5 shall be effective after one hundred and eighty days following such date of enactment.

Mr. RANDOLPH. Mr. President, the United States is faced with a serious energy crisis. The situation is on us now, and it is likely to remain with us for several years.

Discord and divisiveness, as we attempt to meet the energy crisis, must be cast aside. Polarization and partisanship must be subordinated as we attempt the passage of legislation which will call for personal discipline and national decision in the months and possibly the years ahead.

We must work together in every segment of our society and at every level of our Government during the increasingly short supply of fuels.

The Congress and the administration are being vested with extraordinary responsibility and power. The people of our country will hold us accountable for reasoned regulation and equitable legislation.

The hour of luxury is over. The hour of necessity is here.

The shortage of fuels we are experiencing will cause hardship this winter and they will not suddenly evaporate with the first ray of spring sunshine. We must now begin making the adjustments necessary to bring our way of life and our economy into harmony with the new realities of scarcity. The United States is a strong nation. It is populated with citizens who are self-reliant and resourceful. I am, therefore, confident that the vicissitudes of the present circumstances can be overcome.

The ability of our country to react quickly and affirmatively in a crisis is demonstrated in the legislation before the Senate. This bill, the National Energy Emergency Act of 1973, S. 2589, is our response to the immediate need to conserve and wisely utilize the limited fuel resources that will be at our disposal in the months ahead.

The bill was developed with dispatch, but it was not hastily conceived. Its provisions were not pulled out of thin air, but are based on studies and deliberations, that in some cases, started years ago. So, the reactions to the current crisis that are contained in this bill are reasoned responses to a situation that has been developing for some years.

That we are able to act on this bill today is a tribute to the seriousness with which Members of the Senate view the fuel shortage. It also reflects the leadership of our able and distinguished colleague from the State of Washington, Senator Henry M. Jackson, the chairman of the Committee on Interior and Insular Affairs. He has mobilized the resources needed to bring this measure to the Senate in only 7 days. The Senator has provided realistic judgment in this time of national need.

His committee received 11 hours of testimony last Thursday from Government, industry, and environmental groups. On the very next

day, the Interior Committee met in open executive session for 6 hours. Action was completed by the committee on Monday after another 5 hours of intensive work.

The fact that we are to consider proposals on such a far-reaching subject as the nationwide energy supply problem shows that the Congress can act and act decisively.

Like every other American, however, I regret that we are forced to take the steps proposed in this bill. While a rapidly changing international situation brought the immediate crisis to a head, an energy shortage has been developing for years. Senator Jackson and others who recognized the undesirability of our growing dependence on foreign fuel sources and the rapid depletion of our domestic resources, repeatedly called attention to the need for a rational national fuel and energy policy.

Over 3 years ago, I expressed deep concern for the need for a national energy policy. On September 2, 1970, I stated:

Energy industries and this Nation, and the world, are embarked on a gigantic gamble that we can continue to supply this energy requirement with known and unproven sources of crude oil, natural gas, and coal or other sources of energy such as the breeder reactor, fuel cells, or even the fusion reactor. To lose this gamble would be a catastrophe. * * * The security of the United States is entwined by this issue. The principal issue confronting us is how to create an integrated policy for the development of energy and the maintenance and enhancement of environmental quality while minimizing our dependence on uncertain foreign sources of bulk energy.

We could spend many hours debating how we got into such a situation? But one factor overshadows all others. Our present ad hoc national policy relies on the use of imported premium fuels—crude oil and refined products—to meet shortfalls in domestic energy supplies.

Our country's present hodge-podge of energy policies is somewhat synonymous with an imported oil policy. If projections made before the Arab-Israeli war were to materialize by 1980, almost half of our oil supplies would be coming from the Middle East.

As more recent and continuing events have been demonstrating, this proposed dependence on the Middle East is thoroughly unrealistic, even for the short term. But, we have not taken any substantial and necessary steps to assure alternate domestic supplies.

Japan and Western Europe have no other choice than a significant reliance on imported energy supplies. However, the United States, like Russia, has the potential to achieve energy self-sufficiency through reliance on domestic resources.

For the past quarter-century one administration and one Congress after another have failed to create or even consider the need for a national energy policy. We have been content with a hodge-podge of policies, or lack of policies.

Now we are paying for this neglect—and for the negligence of many Congresses over the span of years.

Our present national administration, however, suffers an additional handicap, it is characterized by indecision, delay, lack of candor, and an understatement of domestic problems.

Almost 8 months ago President Nixon transmitted to the Congress the particulars on proposed Federal energy policy initiatives.

Although considerably more ambitious than was his June 1971 energy message, the President's April 18 proposal failed to define

the elements of a fuels and energy policy in the Nation's interest. It was more appropriately classified as a declaration of intent rather than a clear and meaningful description of national policy.

Since receipt of the Chief Executive's April 1973 message, the Congress has aggressively worked on the elements of a national energy policy—with little, if any, support from the administration.

For example, the mandatory petroleum allocation program was opposed for months although there was a gasoline shortage. A mandatory program then was announced for November 1, 1973. But it has not taken effect. Moreover, the administration has not yet informed the public of the delay. The program reportedly is now to go into effect next month.

During the interim period the United States will experience the first effects of the cutoff of oil imports from the Middle East. In short, the administration is content to react after the fact rather than taking the obvious steps beforehand.

Although the President's April 1973 message provided recognition of anticipated shortages of basic energy resources and their conversion products, it did not include a proposal for assuring that essential uses are satisfied during periods of curtailment of energy supplies such as gasoline, diesel fuel, heating oils, or low-sulfur fossil fuels.

In fact, the Economic Stabilization Act Amendments of 1973 were opposed by the administration. The Eagleton amendment, which I cosponsored, now is the President's principal mechanism for dealing with emergency energy problems.

Yesterday the Senate passed and sent to the President the conference report on the Emergency Petroleum Allocation Act of 1973. That measure provided expanded authority for the same purpose. Yet the measure also has been opposed by the administration.

Last week, however, the President finally realized there is an energy crisis brought on in part by our unrealistic and biased foreign policy toward Middle East countries.

Mr. President, over 3 years ago, I stood in this Chamber and presented to my colleagues the reasons for the establishment of a national energy policy—a concern I have voiced since 1959, with legislative proposals.

On many occasions I questioned the feasibility of the United States maintaining its enormous consumption of nonrenewable energy resources—the fuels that drive our economy.

Now we find ourselves in the throes of trying to resolve disruptions in our energy supplies that threaten the very foundations of our economy. Repeatedly the administration has understated the seriousness of the problem.

Only last week President Nixon, in his address to the Nation, talked in terms of a shortfall in petroleum supplies of 2 million barrels a day. In the same week his energy policy adviser, John Love, in private, told the Interior Committee that the shortage would be 3 million barrels per day. Now former Interior Secretary Udall estimates that the shortfall will be as much as 6 million barrels per day. This is a far cry from the administration's optimistic projections.

Positive actions are now needed. Both the President and the Congress must face present realities and the end result must soon be workable short-term fuels policies which also will serve the foundation for

a long-term national energy policy. Aggressive and vigorous policies are necessary if there is to be a rebirth of America's domestic energy resources.

Yet, the Congress as yet has not received a legislative proposal to cope with our current energy problem. Nevertheless, today the Senate is considering emergency energy legislation.

While the bill we consider today was worked out concurrently with administration spokesmen at the executive sessions, the Congress has yet to receive a specific legislative proposal from the President or the administration. The only indication of support was the President's statement last week, when the Chief Executive took credit for this legislation which was initiated in the Senate by Senators Jackson, Magnuson, and myself. Until last Wednesday the Nixon administration had actually opposed this very legislation.

Mr. President, today the Senate is being called on to consider an extraordinary piece of legislation. This measure places in the President's hands control over every aspect of our economy—for control over energy supplies is synonymous with control over the economy itself.

This is more than energy legislation—it is economic legislation. In controlling energy supplies the economy of our country is actually controlled—the people who are employed or, alternatively, unemployed are controlled—and those sectors of the economy that are going to be allowed to grow are controlled. The economic impacts from energy controls are so pervasive as to touch the very fiber of our society and the American way of life.

Consequently, there must be changes in our traditional institutions and in the American way of life, itself. The issues are much broader than the frequently debated issues arising from between the standard of living for the affluent and those people who are on welfare. In this instance, the manner in which we all live our daily lives is going to be directly affected.

To minimize the impact of present shortages on our society as a whole we must reduce waste. Unnecessary consumption of energy in one sector of our economy, in fact, may mean unemployment in other areas.

One use of energy where there is substantial room for improvement is in transportation—the uses of energy for the movement of goods and people within our society.

How can we, with this legislation, encourage the curtailment and limiting of energy consumption within almost every sector of our economy, without emphasizing the automobile's often inefficient use of energy?

Mr. President, in the course of the Senate's debate on S. 1570, the Emergency Petroleum Allocation Act, last June 4, it was my responsibility to propose an amendment for a significant reduction of speed limits on all Federal-aid highways as one quickly effective means of conserving the Nation's gasoline supply. This amendment was deleted in conference from the final bill.

Since my proposal was only a non-mandatory "sense of the Senate" expression I recognized that—regardless of what final action taken by the Congress on it—it would have served only as a recommendation and that it was to be implemented and enforced at the State level.

Thus, the real test of the worth and the potential effectiveness of my proposal depended on the degree of its acceptance by the States.

Consequently, on June 7, I sent letters to the 50 Governors, citing the need for the amendment and the scope of its provisions.

Eighteen of the 28 Governors who responded did so in a positive way, indicating their awareness of the gasoline shortage situation and recognition that specific measures such as the type proposed might be needed to cope with it.

Several of them indicated that steps are already being undertaken to implement such measures at an early date through administrative or legislative procedures.

Replies from 5 of the other 10 expressed a willingness to take a close look at the solution my amendment proposed as one possible alternative.

Only two of the responses indicated specific opposition to the amendment or serious misgivings about its provisions.

The expressions of support came from all parts of the country. The list included big States and small ones, urban and rural-oriented, industrial and agricultural.

These responses provide clear evidence that a growing number of State leaders are ready to accept the harsh realities of the current situation and to make the hard decisions which will be required of them if our present energy supply problems are to be resolved.

In the interim, Mr. President, the situation has become progressively worse. This has resulted from recent developments in the oil-producing area of the Middle East. It is obvious that more needs to be done to conserve the gasoline supply we now have available.

Mr. President, I fully support the intent of **section 202(b)(2)** which empowers the President to reduce speed limits as an energy conservation measure. The potential savings of such actions are significant.

When driving slower the loss is time—not necessarily money. In fact, the increased economy results in economic savings. In short, money is exchanged for time. An additional savings, however, will be in lives and lower accident rates and injury. The gasoline savings will facilitate other savings within our economy without any loss in the mobility of the consumer. The inconvenience is a matter of more time for the motorist but possibly loss of jobs for others:

On November 7, 1973, the Department of Transportation released a report of the Federal Highway Administration that estimates that a late-model automobile driven at 70 miles per hour consumes 30.5 percent more gasoline than a car traveling at 50 miles per hour. If this improved economy from driving slower could be achieved it could amount to a savings of about 5 percent of the total fuel consumption on our highways.

However, it also was shown that speeds below 50 miles per hour could perhaps waste as much fuel as would be saved from reducing speeds from 70 to 50 miles per hour. In other words, there is a point of diminishing returns.

The greatest savings are realized in dropping driving speeds from 70 to 60 miles per hour—an improvement of 2.58 miles per gallon, from 14.98 miles per gallon at 70 to 17.51 miles per gallon at 60 miles per hour.

In dropping from 60 to 50 miles per hour, the savings is only 1.98 miles per hour—or some 19.49 miles per gallon.

From this data it is reasonable to conclude that speed limits should be reduced not to 50 miles per hour but to somewhere between 50 and 55 miles per hour.

For this reason I support those provisions of S. 2589 that empower the President to reduce speed limits. This reduction should be to somewhere between 50 and 55 miles per hour. The actual reduction would be determined on the basis of criteria in S. 2589.

The challenge is there; the question is one of acceptance and a solid commitment to meeting our country's energy needs in ways consistent with our national environmental policies.

On April 18, 1973 I addressed the First Government Affairs Seminar of the Air Pollution Control Association. At the time, I stated:

After long deliberation in 1967, and again in 1970, the Congress enacted a Federal air pollution control policy that distinguishes between concerns for public health *and* concerns for welfare. Twice the Congress rejected the concept of national emission standards. Yet, as so frequently has occurred in recent years, the Administration ignored flexibility contained in the 1970 Clean Air Amendments and encouraged the States to adopt, in effect, national emission standards which bear no relationship to ambient air quality standards.

Nevertheless, don't look to the Congress for "wholesale" variance from existing regulations. Judicial remedies were provided, in 1970, for this purpose. A realistic distinction is needed between potential and actual problem areas. Then let's talk. For the issue is not repeal, but whether there has been a "good-faith" attempt to incorporate environmental and social concerns into management decisions by government and industry, alike.

The legislation under consideration today concerns itself with the specific interrelationship between available environmentally acceptable energy supplies and air pollution controls stemming from the Clean Air Amendments of 1970.

To date we have not done well in finding a suitable and equitable balance between energy and the requirements under this act. Rather, it seems that we have adopted a national posture of energy versus clean air.

In the President's April 18 message to the Congress concerning energy resources, he proposed "To carry out the provisions of the Clean Air Act in a judicious manner, carefully meeting the primary health related standards, but not moving in a precipitous way toward meeting the secondary standards."

The President proposed:

Delay of the secondary air quality standards that are non-health related by the States beyond 1975 in order to allow fuller utilization of our coal resources until the new technologies have been demonstrated.

However, I have never been sure how this extension of deadlines by the States is to be accomplished. The 1970 Clean Air Amendments did not provide Federal authority applicable to implementation of this suggested extension.

On May 1, 1972, during hearings of the Senate's national fuels and energy policy study, I asked Secretary Rogers C. B. Morton how the administration intended to accomplish this extension of deadlines by the States. In response Secretary Morton stated:

Senator Randolph, the only way of course that we could do it under the present authority is to work within the States themselves through cooperative negotia-

tions with the States. If this fails, we will have to come back to the Congress and obviously seek amending legislation of the Clean Air Act to provide ways and means of doing it.

What was unclear to me was whether this extension by the States was to be undertaken with Federal guidance or by Federal coercion.

Mr. President, now the Congress finds itself in the difficult situation in S. 2589 of proposing variances from the plans of implementation established by States pursuant to the Clean Air Act, as amended. **[Sec. 205.]**

The President is directed to require the major electric generating plants and industrial facilities that have the capability to convert to the use of coal where available. Such conversions may very well result in violation of applicable sulfur oxide emission standards. Therefore, such conversions may require the issuance of a temporary variance, subject to the procedures of the Clean Air Act, as amended.

Mr. President, the Senate Committee on Public Works on Monday of this week held hearings on amendments to the Clean Air Act that could be activated in response to actions taken pursuant to the National Energy Emergency Act of 1973.

Under an agreement between the Committee on Public Works and Senator Jackson, chairman of the Interior Committee, this amendment was considered by the Public Works Committee. It was ordered reported yesterday following extensive discussion.

Upon final action by the Senate, both S. 2589 and this amendment to the Clean Air Act can be joined together.

Mr. President, the National Energy Emergency Act of 1973 represents an extreme response by the Congress. Exercising our constitutional role, the Congress has provided the President in this legislation with almost unlimited power—control over our economy.

While I recognize the need for such authority at this time, I believe this is a bad precedent. Nevertheless, we face today a challenge of monumental proportion. The legislation before the Senate is designed to help America come to grips with and overcome one of the most serious situations it has ever faced. With its provisions, and with the determination of the American people, I know that the energy crisis will be survived and that we will emerge from this winter well along the road to resolving our long-term energy problems.

SAVING ENERGY IN OREGON

Mr. HATFIELD. Mr. President, I would like to call the attention of our distinguished chairman, Mr. Jackson, to one small error in the committee report accompanying S. 2589. Considering the time pressures under which the staff has been operating, it is easy to see how such a small error might be made.

I refer to a statement on page 18 of the report, where it states:

For example, the Governor of Oregon has already ordered the schools in that State to be closed for a month this winter.

Actually, the Governor suggested such a step as one alternative for energy savings. The resulting opposition, however, convinced him that such a move would be unwise. I understand that there is planned some sort of "Energy Education Week," so that students in Oregon will have a "crash course" in ways they and their parents can save energy.

BUSING

Mr. BROCK. Mr. President, 6 months ago it became very apparent that this country would face a serious fuel oil shortage. Little did we know at the time that we would be facing a major crisis, a complete energy crisis, due in part to a cutoff of oil from the Arab nations to other countries, which has had a very critical effect on this country's ability to supply energy needs. Two months ago, I noted that we would indeed have an energy problem this winter, a situation that no doubt did not escape my fellow colleagues.

However, I must point out that this crisis has been in the making for 30 years, and we have either turned our heads, or chosen to ignore it until we had to do something about it. Obviously, the time to do something about it is now. I also noted 2 months ago that we faced the prospect of controls on our energy. I cannot repeat too many times my opposition to controls on any type of product in the marketplace, but as usual controls beget controls, and now we may have no choice.

We have, obviously, an obligation to act, and act quickly upon the measure before use at this time. But, I would like to make one other point. We are facing a fuel crisis. We are now facing certain measures to help see the country through a very trying time, to indeed, help us survive in this period of problems. However, I cannot understand why we face the prospect of cold homes and closed plants, but yet we continue to use this precious fuel to bus children away from their homes and families all the way across their town to attend another school in the name of racial balance. I could find it much easier at this point to do what we must do in helping find a solution to our fuel shortage and energy shortage if it were not for this one matter, using fuel to bus our schoolchildren.

I would certainly hope that we would take into consideration this factor as we debate this very important measure. I cannot for the life of me see the wisdom of telling families that they face the prospect of not being able to heat their homes this winter, and even more families that they might lose their jobs, when they see hundreds of thousands of dollars a day spent on gasoline for schoolbuses as they watch their children boarding one of those buses to be taken across and out of their neighborhoods to attend schools.

This is a serious matter, one that the average parent will find hard to understand. He is being told to lower his thermostat in his home to have fuel. He is being told that there may not be enough fuel available for him to have a job. He is being told he must slow down on the highways. He is being told that we may have to pollute our environment again just to stay warm. Then, where is the logic of his spending his tax dollars to send his child out of his home area, in a fashion which consumes tremendous amounts of this item which we now find so precious? It simply does not make sense. It is not logical. It is not economically sound. Its time Congress acted in dealing with this situation.

Mr. EAGLETON. Mr. President, I send to the desk two amendments to S. 2589.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Briefly, these amendments would do the following:

First. Require the President to develop a plan for regional or area allocation of fuel to take account of emergency situations and geographical disparities in fuel supplies.

Second. Provide criminal as well as civil penalties for repeated violations of regulations promulgated under authority of this act—in short to come down hard on potential black-marketers.

The purpose of the first amendment is to assure that fuel rationing and conservation programs are accompanied by measures to equalize as nearly as possible the fuel available to the various regions of this country and to meet emergency situations.

The uneven distribution of supplies is at the very heart of our present energy crisis. Far more critical than the prospect of a 10- or 15-percent nationwide shortage this winter, as uncomfortable as that may be, is the fact that some regions could fall 50 to 60 percent short of what they require. The difference, I submit, is between manageable sacrifices and unmitigated disaster.

Unfortunately, the focus of attention as expressed in the President's statement last week and reflected in this bill is on the national dimensions of the problem with virtually no regard to the sharp disparities that exist within the Nation.

We are told by the President, for example, that in order to meet the estimated 17-percent deficiency in national heating oil supplies, we must all cut back our use of oil by 15 percent. But what will that mean to the Midwest family if it is only able to obtain 75 percent of what it needs to begin with? How would their sacrifice weigh out against a family living in Florida or the Gulf States?

We are in real danger, I am afraid, of following in the footsteps of Professor Galbraith's legendary 6-foot economist who drowned in the stream which had an average depth of 3 feet. National energy programs are necessary but they must come to grips with substantial differences among regions and areas of this country if they are to achieve their objectives.

We know that the heating oil and natural gas shortages of last winter hit hardest in the Midwest and New England States. That was true to a large extent also of the gasoline shortages this summer. There is a reason for that. These areas are furthest removed from the large refineries that produce those products and from the ports of entry for imported fuel. In a literal sense, they are at the end of the pipeline and they are the first to feel any cutback.

The National Oceanic and Atmospheric Administration predicts an abnormally cold winter for much of the Great Plains area and a good part of the Midwest. Almost certainly, we will encounter weather emergencies in some sections of the country this winter and the availability of fuel could become a life and death matter. It is absolutely essential that we have a program in being for responding to such situations and my amendment requires it.

This spring when the fuel shortages became particularly severe in Missouri and other Western States, I introduced an amendment to the Economic Stabilization Act which is the basic authority behind the administration's present fuel allocation programs. The purpose of that amendment was twofold: First, to assure that all areas of the country

had sufficient fuel supplies to meet vital needs; and second, to authorize some setting of priorities for fuel use within any given region.

Unfortunately, the administration delayed implementation of my amendment until 6 months after its date of enactment on April 30, 1973. Only in the last 2 or 3 weeks has it imposed a mandatory allocation of propane gas and heating oil.

Despite the clear intent of the amendment to bring about some equalization of fuel supplies among regions of the country, the administration's program ignored that aspect to focus entirely on priorities of use.

The result has been that in Missouri and other Midwestern States, farmers, homeowners and other priority users of propane and heating oil are unable to obtain adequate supplies although the law says they are entitled to 100 percent of their needs.

Let me cite one example of the problem as it has developed with regard to propane.

The largest propane distributor in Missouri provides about 25 percent of the State's needs and operates in 28 other States.

That company has been advised by two of its principal suppliers—both major oil companies—that they can provide only 70 percent and 95 percent respectively of priority needs and nothing for nonpriority industrial and business uses because they simply do not have it. I might add that these companies supply roughly the same percentages in several other Midwestern States.

This same distributor purchasing from the same two companies in its Gulf States operation is able to obtain 100 percent for priority customers and 60 to 80 percent for nonpriority users.

I have had a similar report from a propane distributor who serves 2,000 residences in Portsmouth, Va., many of them military families. He has been notified by his major oil company that his supply for priority customers will be cut next month from 80 percent to 44 percent of need.

It does no good to point to a Federal regulation or to quote national supply and demand figures when businesses and whole industries within a region are shutting down, as they are in my State, because their situation doesn't comport with the national average. That argument will not reopen the schools and churches or heat the trailers and farm houses of the dozens of constituents who have written or called me in just the last few weeks.

I recognize that propane is a unique product and presents some special transportation problems, but I am convinced that with an effort on the part of the administration the worst of the disparities that now exist could have been avoided.

I know from my own mail and phone calls that the same kind of problems prevail in the distribution of other fuels. In an effort to obtain some solid statistical data on distribution patterns, I have been in touch with the economists of the Office of Oil and Gas and the Bureau of Mines.

What I found, frankly, appalled me. The truth is that we have no data which gives more than a glimmer of the supply-and-demand situation within the various regions of this country. The most definitive thing that I could come up with was the report on primary inventories

in refinery districts, defined in a way that does not even break out New England from the rest of the east coast. It was suggested to my staff that perhaps the best index now available is a tabulation of complaints which is where we began.

One purpose of my amendment is to require the systematic collection of data which would provide a clear picture at all times of the needs and supply available to various regions. We can hardly deal with the problem until we have a reporting system that identifies the problem and its magnitude.

Beyond that requirement, the amendment directs the President to submit to the Congress within 15 days of enactment of this bill a contingency plan for meeting any imbalance in distribution of available fuel supplies and geographic regions or areas throughout the United States based upon their respective relative needs including, I might add, the respective relative needs of each of the several States within any such region. This plan must include provisions for whatever special transport facilities are necessary to implement the action.

Mr. President, the Senate yesterday cleared the conference report on S. 1570, the Emergency Petroleum Allocation Act of 1973. Among many other allocation objectives, that bill contains a provision for equitable distribution of fuel among the regions of this country. Unfortunately that objective has been heavily compromised by a number of other competing goals including minimization of economic distortions and unnecessary interference with supply mechanisms. At one point, the conference report notes that "it is expected that the President's regulation will in those cases merely confirm existing supply relationships." While it may represent a beginning, S. 1570 is woefully inadequate to meet the serious problems we now face.

It is absolutely essential that a much stronger regional allocation provision be added to the bill now before us, S. 2589. It is essential just to carry out the objectives which this bill seeks to achieve, namely, providing adequate fuel for all American citizens and correcting dislocations in the national distribution chain. More than that, however, it is essential if we are to avoid catastrophic energy shortages in major areas of this country.

The second amendment, Mr. President, is designed to subject those who engage in black-market sales of fuel to criminal penalties. This is already a problem in my State with regard to propane and diesel oil and I think we can anticipate in a period of national shortage that some individuals and companies will attempt to exploit the situation for profit.

My amendment would subject any person who willfully and knowingly commits repeated violations of fuel conservation rationing regulations to a fine of \$50,000 and/or imprisonment for not more than 6 months.

Mr. President, I regret that the emergency nature of our energy problems prevents greater deliberation on this bill. That cannot be helped. We can only try to make the final measure as effective as possible.

I believe my amendments will contribute to that and I urge the Senate to adopt them.

Mr. EAGLETON. Mr. President, I call up the first amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.
The assistant legislative clerk read as follow: **[Sec. 203(c)]**

On page 17, between lines 18 and 19, insert the following:

"(c) Not later than fifteen days after the date of enactment of this Act, the President shall take such action as may be necessary to determine the fuel needs among the major geographic regions of the United States and shall promulgate a plan which will assure an equitable distribution of available fuel supplies among such major geographic regions of the United States based upon their respective relative needs, including the respective relative needs of each of the several States within any such region. Such plan shall include such allocation of available transport facilities as may be necessary to assure the equitable distribution which is required under such plan. Plans prepared pursuant to this subsection shall be implemented within 30 days of their promulgation."

MR. EAGLETON. Mr. President, this amendment is a follow-on to the Pastore amendment, which was adopted earlier today by voice vote. It stems from the same dilemma, and I will not repeat the cogent arguments set forth by the distinguished Senator from Rhode Island (Mr. Pastore), but will summarize them briefly.

Certain regions of the country have a particular dilemma insofar as fuel shortages are concerned. Those regions are primarily the New England area and the Midwest. They are removed from the principal lines of fuel transport including ports of entry for imported stocks. Even in good times, even in so-called normal times, there are problems insofar as those two areas are concerned.

As we all know, we are no longer in good times; we are no longer in normal times. We are in a time of energy adversity. Hence, the thrust of the Pastore amendment, as it is with the pending Eagleton amendment, is to insure that such adversity as we may have this winter will be shared equally across the board and there will be no one area of abundance of affluence in the country and no area of total deprivation. Whatever shortage there may be should be borne equally from Maine to Hawaii.

My amendment would require the President to have in place and ready to become operable if needed a plan to redistribute energy resources to areas, such as New England and the Midwest, that might fall into short supply.

This plan would be subject to congressional review and approval under **section 301** of the bill once it is promulgated by the President of the United States.

MR. FANNIN. I commend the Senator for what he would like to do, although I feel that he is complicating the overall procedures that would be followed by the administration, acting in accordance with the requirements of this bill.

The bill, as he knows, is "to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes."

I say that because the amendment of the Senator from Rhode Island (Mr. Pastore) did have reference to exactly the same fears that the Senator from Missouri has expressed, and I realize why he has those fears.

But the amendment of the Senator from Rhode Island was changed: "the President shall strive to insure that all regions and all States of the Nation share available fuels in an equitable manner."

I think this is an indication to the President of the desire of Congress to see that what the Senator from Missouri has provided in his amendment is accomplished. But if we are going to set up every phase of this work that is required by the administration, it is going to be so confusing that it will result in turmoil.

I realize that we all want equitable distribution, and that we want the transportation facilities to be made available. But also we must realize that this is a very complex situation, and if we do not give the flexibility to the President, we will reduce his ability to act on the general needs that the Senator from Missouri is approaching. I feel it is covered in the legislation sufficiently and that this amendment would be a barrier rather than assistance to carry out the mandate we give the President.

Mr. EAGLETON. Mr. President, in response to the statement by the Senator from Arizona, I must say that I respectfully disagree. He makes three principal points to which I would like to respond.

The Senator states, first, that it is all right for Congress to express the desire that a contingency regional allocation plan be set up but not to do anything more. We already have expressed that desire. We did so 6 long months ago. The Eagleton amendment to the Economic Stabilization Act gave the President discretionary authority to redistribute fuels in short supply among geographical areas of the country. We expressed our desire 6 months ago and nothing has been done.

We are not mandating any specific plan. All we are saying is that under this bill we want the President to have ready to go on an "if need—if come" basis a plan for relocation and redistribution of energy to areas of short supply.

The Senator said we will make this program too burdensome if we require such a plan. This amendment does not presume to write the plan, but rather to require the President and his advisers to develop it and to submit it and other appropriate plans to Congress under the catch-all **section 301** already in the bill.

Finally, the Senator said we have to give the President a good deal of flexibility. Indeed, we do, and this amendment does. We do not say we are going to take oil from New Orleans and ship it to St. Louis or from Los Angeles and ship it to Vermont. We do not encumber this at all in detail. All we mandate is that the President and his advisers, in light of their dismal past history in dealing with the energy crisis, have a plan ready to go when needed this winter. Should an emergency arise where certain areas are hard hit by shortages, we will need to act quickly. This is more than a possibility. It is predicted by NOAA. I never remember what all the initials stand for, but it is the agency that predicts the weather.

According to these weather predictors, there will be a particularly severe winter in the Midwest and Great Plains States this year. I hope the prediction is wrong, but if it is correct there will be a particular dilemma in the Midwest because (a) we are short of fuel even under normal circumstances and (b) we truly will be in trouble if we have this unusually cold winter that the predictors forecast for us.

All we do in my amendment is to tell the President in light of what we now know or can anticipate to have available a plan that will be of assistance to areas that will be particularly hard hit in the forthcoming winter.

Mr. FANNIN. Mr. President, I commend the Senator for what he did provide in connection with the Economic Stabilization Act. That has afforded the administration the opportunity to go forward with planning. I am not at all concerned that they have not been doing exactly what the Senator is talking about. They have been operating under a procedure that is outlined in the Economic Stabilization Act, and I think it is sufficient.

If we start trying to develop every detail of the program I do not feel that it will have flexibility. We would be telling them what to do without having all the facts.

The Senator is familiar with the transportation industry. That is an industry I was associated with and I know the complexities of trying to switch fuel from one area to another or switch from one type fuel to another. We must depend on the administrators and the departments in charge of these responsibilities to carry through, and I think they will.

I do not think the amendment is necessary to accomplish the objectives that the Senator has in mind. I think it will be handled properly and the President will have greater flexibility than if we have the stipulations provided in the amendment.

As I have stated, this would create problems rather than solve problems.

Mr. EAGLETON. Mr. President, in response to the Senator's response, I wish I could be a bit more sanguine about his view of the ability of the administration to cope with this problem. Had it not been for the administration's experience under the Eagleton amendment I might be. But, nothing has been done with that amendment. It has been on the books for 6 months but so modestly implemented as to be almost useless. Against that track record, I cannot be confident that the administration will be prepared for what is going to be not just a possibility but an eventuality this winter, to wit, one or more regions of this country will be severely, almost oppressively hard hit this winter by energy shortages. Like the Boy Scouts, let us be prepared. All this amendment says is we know what is going to happen, let us be prepared. Draw up a plan now because you are going to need it soon.

Mr. FANNIN. Mr. President, to reiterate, I feel the plan the Senator is discussing is certainly being prepared and has been considered as part of an overall program. I think to further confuse the issue would be unwise.

Mr. FONG. Mr. President, I wish to propound a question to the distinguished chairman of the committee and the ranking minority member of the Interior Committee for clarification regarding section 203, entitled "Emergency Fuel Shortage Contingency Plans."

Under paragraph (b)(2) of this section, restrictions are to be placed against the use of fuel or energy for nonessential uses. I am concerned, Mr. President, that the interpretation of the term "nonessential uses" may become troublesome.

In my State of Hawaii, the visitor industry is, by far, the largest income producer for our local economy, outside of defense spending. In 1972, for instance, visitor expenditures in Hawaii totaled \$755 million. This is more than twice the combined sales of Hawaiian sugar and pineapple. It is expected that Hawaii's visitor industry expenditures will surpass defense expenditures this year for the first time.

An estimated 40,000 persons in Hawaii are employed by hotels and other businesses directly related to the visitor industry.

So, obviously, Hawaii's economy is heavily dependent upon the visitor industry, which in turn is heavily dependent upon fuel to move people to and throughout the State.

I would also like to point out that 10 percent of Hawaii's tourist business is dependent upon visitors from Japan. Last year 235,000 Japanese visitors came to Hawaii and this year that number will increase to 300,000. The expenditures of these foreign visitors help considerably to lessen our balance-of-trade deficit.

I would welcome your comment, Mr. President, on whether an industry as vital to Hawaii as the visitor industry and which helps to improve our trade balance, can expect to receive equitable and fair treatment under the rationing and conservation program contemplated in this legislation?

Mr. JACKSON. The answer is "Yes." We certainly contemplated there would be fair and equitable treatment in recognizing that the economies of each State are different. May I say the economy of Hawaii, as the Senator has pointed out, is heavily dependent on tourism. The bill contemplates a vital and healthy economy. This is not a luxury as far as Hawaii is concerned; it is a business. The people who come there, of course, may have problems getting there, depending on where they live and depending on the availability of jet fuel for commercial aircraft primarily, I would assume. But the bill itself, as far as Hawaii is concerned, does not single it out as a State which is in the luxury business, because while it may be a luxury for the person who comes there, it is an essential part of the business of the State of Hawaii.

The answer to the Senator's question is "Yes."

Mr. FONG. I thank the Senator.

Mr. FANNIN. Mr. President, I merely wish to state to the distinguished Senator from Hawaii that I, too, agree with the answer "Yes." As stated in the bill, on page 14, section 102, "Purposes," under **subsection (e)**, the intent is to "minimize the adverse effects of such shortages or dislocations on the economy and industrial capacity of the Nation."

Tourism is a vital part of the Hawaiian economy. The employment of people, and their ability to carry their load from the standpoint of taxation and otherwise, is vital. So I do not have any hesitancy in saying to the Senator from Hawaii that this is an important factor, and I am sure the intent of the committee members was to that effect in providing this language.

Mr. FONG. Mr. President, I wish to thank the distinguished chairman and the ranking minority member of the committee for their clarification of this section and holding that the tourist business in Hawaii is an essential business.

Mr. AIKEN. On page 14, line 6, the committee grants to the President of the United States, and directs him to exercise, specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products, and other fuels.

Would the chairman advise us whether that "other fuels" applies to stove wood, fireplace wood, and wood used for industrial purposes, such as the manufacture of maple sirup?

I think it should be understood that millions of people in the United States depend upon wood not only for heating their homes but for other purposes as well.

I know they would feel better if the chairman of the committee would advise us that this wording is not intended to apply to stove wood or fireplace wood or wood used for boiling maple sap, and that amounts to thousands and thousands of cords of wood every year.

It does not apply to wood, does it?

MR. JACKSON. To be very candid about it—my colleagues can corroborate what I am about to say—we never discussed wood as a fuel—stove wood or fireplace wood. Frankly, what we are really talking about in “other fuels” here relates primarily to coal. We were not talking at any time during our deliberations of the movement of fuel such as wood.

I take it that in a particular sense, conceivably, if we reached a total disaster situation, wood could be included. But it is not in the context of this emergency.

MR. AIKEN. It would not apply to buffalo chips?

MR. JACKSON. That is a most searching question. I come from wood country, too, I will say to the Senator, but it never ran through my mind that we would be talking about allocating wood in the national fuel sense. So I think it is fair to say that it is not contemplated in this kind of emergency. Let us not have anything worse than this.

MR. EAGLETON. Mr. President. I ask unanimous consent that the distinguished Senator from Connecticut (Mr. Weicker) may be added as a cosponsor of my amendment.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. FANNIN. Mr. President, I take it that the Senator from Missouri has asked for the approval of his amendment.

MR. EAGLETON. Mr. President, I move the adoption of my amendment.

MR. FANNIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

MR. JOHNSTON. Mr. President, I have a question to ask of the distinguished Senator from Missouri. First of all, is it not the intent of the amendment to regulate only those fuels that are subject to regulation already in S. 2589? I respectfully refer to the fact that in **subsection (f) of section 203** intrastate gas is not subject to regulation, and therefore the Government would not add the regulation of intrastate gas.

MR. EAGLETON. That is correct.

MR. JOHNSTON. The second question relates to the relationship of the section of the amendment, about mandatory allocation. The section having to do with mandatory allocation provides that some fuels subject to regulations in S. 2589 are subject to regulation but not allocation. But according to the schedule that sets up provisions for public health, safety, and welfare, in the first category; public service in the second; and agriculture in the third category; and so forth, I wonder whether the amendment would simply refer to an equitable distribution among the major geographic regions of the United States and to an equitable distribution among the States within that region. I wonder whether that may not be regarded as an allocation according

to States rather than an allocation according to needs, based on the allocation of needs as set forth in the mandatory allocation bill.

Mr. EAGLETON. I believe this is working in harmony with other portions of the bill and previous legislation. At the risk of oversimplification, the amendment provides that if region X has 90 percent and region Y has 50 percent of basic needs there should be some balancing of supply between them. The Midwest and New England might not think it is quite fair to have 50 percent of what they need while other regions have a surplus. If shortages are to be incurred, they should be borne equally from Maine to Hawaii.

Mr. JOHNSTON. Why would not that result from the mandatory allocation bill, in **section 4**?

Mr. EAGLETON. Because as I read the mandatory allocation bill and the Economic Stabilization Act, that is discretionary only. This amendment mandates that we have a plan in place. It does not try to spell out parameters but it provides that if there is to be a horrendous shortage of oil in the Midwest and New England, there had better be a plan in place to take care of fuel distribution to that part of the country.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri. On this question the yeas and nays have been ordered.

Mr. EAGLETON. Mr. President, I yield to the Senator from Vermont.

The PRESIDING OFFICER. (Mr. Haskell). The Senator from Vermont is recognized.

Mr. AIKEN. Mr. President, a sentence in the Senator's amendment—and I agree with his purpose—reads:

Such plans shall include such allocation of available transport facilities as may be necessary to assure the equitable distribution which is required under such plan.

Mr. President, am I correct in interpreting "available transport facilities" to mean not only railroad facilities, boxcars, tank cars, coal cars, but also barges and trucking services?

Mr. EAGLETON. That would be correct.

Mr. AIKEN. All of them?

Mr. EAGLETON. The Senator is correct, yes, sir.

EQUITABLE DISTRIBUTION OF AVAILABLE FUEL SUPPLIES

Mr. SYMINGTON. Mr. President, current estimates indicate that we will only have available approximately 83 percent of our fuel needs this winter. Predicted shortages in some regions, particularly New England and the Midwest, range as high as 25 percent.

This situation clearly threatens the health, safety, and welfare of the American people and demands immediate, constructive action. It is for this reason that I support passage of S. 2589, the proposed National Energy Emergency Act of 1973.

In Missouri, fuel shortages have already caused economic disruption with industries laying off employees. Many workers in Missouri and throughout the Midwest now face the grim reality of a winter without a paycheck, being forced to try to buy food, fuel, and clothing with un-

employment insurance. It is for this reason that I cosponsored the amendment offered by Senator Eagleton.

This amendment would direct the President to establish and implement a plan assuring an equitable distribution of fuels among the geographic regions of the United States. It also provides authority for allocation of transport facilities to assure this distribution.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll:

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Georgia (Mr. Talmadge), the Senator from Minnesota (Mr. Humphrey), and the Senator from Kentucky (Mr. Huddleston) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from Massachusetts (Mr. Kennedy) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Illinois (Mr. Percy), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The Senator from Arizona (Mr. Goldwater) and the Senator from New Mexico (Mr. Domenici) are detained on official business.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "nay" and the Senator from Illinois would vote "yea."

The result was announced—yeas 49, nays 37, as follows:

[No 484 Leg.]

YEAS—49

Abourezk
Bayh
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cotton
Cranston
Dole
Eagleton
Fulbright
Gurney
Hart

Hartke
Haskell
Hathaway
Hughes
Inouye
Jackson
Javits
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie

Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NAYS—37

Aiken
 Allen
 Bartlett
 Beall
 Bellmon
 Bennett
 Bentsen
 Bible
 Brock
 Buckley
 Byrd, Harry F., Jr.
 Cannon
 Cook

Dominick
 Eastland
 Ervin
 Fannin
 Fong
 Gravel
 Griffin
 Hansen
 Hatfield
 Helms
 Hruska
 Johnston
 Long

Mathias
 McClellan
 McClure
 Nunn
 Pearson
 Scott, Hugh
 Scott, William L.
 Stafford
 Stevens
 Thurmond
 Tower

NOT VOTING—14

Baker
 Curtis
 Domenici
 Goldwater
 Hollings

Huddleston
 Humphrey
 Kennedy
 Nelson
 Percy

Saxbe
 Sparkman
 Stennis
 Talmadge

So Mr. Eagleton's amendment was agreed to. **[Sec. 203(c).]**

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I have one final amendment, which I now call up.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows: **[Sec. 203(c)]**

On page 29, between lines 15 and 16, insert the following:

(c) It shall be unlawful for any person to offer for sale, distribute in commerce, or import into the United States, any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having previously been subjected to a civil penalty for a prior violation of any order or regulation issued pursuant to this Act shall be fined not more than \$50,000 or imprisoned not more than six months, or both.

Mr. EAGLETON. Mr. President, this is an antiblackmarketeeing amendment. Already in the committee bill, Mr. President, there are various civil penalties to be imposed upon individuals or corporations who violate the regulations or provisions of law. What this amendment seeks to do is as follows: if an individual or a corporation sees fit to violate the law a second time, if after being caught once and paying a civil penalty, he sees fit to continue in the blackmarket business, he would be subject to a criminal penalty for the second offense.

The problem of black-marketeeing, Mr. President, is quite real. During the summer difficulties, when gasoline was in short supply in many sections of the country, repeated complaints were filed with our office, and I dare say the office of every Senator, about situations wherein a dealer could find some gasoline, but would have to pay the black-market price.

Now, as the drama of the winter becomes all the more severe, we are receiving daily complaints with respect to black-marketeeing of propane, which is in inordinately short supply, and black-marketeeing of diesel fuel.

I do not think, Mr. President, that it is enough to have just a civil penalty for repeated violators. Admittedly, anyone might make a mistake once, and perhaps a civil penalty for that unintentional, absent-minded, negligent offender would be sufficient. But if a person does it twice, knowingly, willfully, as the law requires, then I think a civil penalty under the circumstances is necessary and warranted.

Mr. President, I am prepared to yield back my time.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Clark). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I mispoke myself—

Mr. LONG. I object, Mr. President.

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

Mr. EAGLETON. Mr. President, I mispoke myself and I want to correct a part of what I said—

The PRESIDING OFFICER. The Chair ruled that there was no objection—

Mr. LONG. Mr. President, a point of order. Does not the Chair owe the Senate time enough for someone to object when a unanimous-consent request is made?

Mr. EAGLETON. Mr. President, I am going to call for a quorum in 30 seconds if the Senator from Louisiana will—

The PRESIDING OFFICER. The Chair would state, that would ordinarily be the case. The Chair has no objection and so rules.

Mr. EAGLETON. Mr. President, I wanted to clarify one statement I made. I indicated that the first offense for which there would be a civil penalty might be negligence or inadvertence. I am wrong on that, and I want to clarify the record on that point.

For a person to be found in violation and subject to a civil penalty, which is the first offense, it must be shown he had willful knowledge in advance of the illegal act. The criminal penalty I am proposing is for the second willful offense, the second time in which a person or corporation knowingly and willfully violate the regulations or the laws, and goes ahead and does it the second time.

Under my amendment, he would be subject to a criminal penalty.

Mr. President, before asking for a quorum call, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. COTTON. Mr. President, will the Senator from Missouri yield for a question?

Mr. EAGLETON. I am pleased to yield to the Senator from New Hampshire.

Mr. COTTON. That means, if this amendment is adopted, that those of us who live in States contiguous to Canada, if some individual crossed the border and filled up his gas tank in Canada before he returned to the United States, he could be had he been in a previous violation, subject to a criminal penalty; is that correct?

Mr. EAGLETON. That would not be the case, because as I take it under the committee bill, that would not be a violation. Am I correct in that?

Mr. COTTON. Then it would be an importation—

Mr. EAGLETON. All my amendment would apply to would be some act that would be in violation of the bill as written. If there is a willful violation the first time, and then there is a willful violation the second time, there would be a criminal penalty imposed on the second willful offense.

Mr. COTTON. That I understand. Then if the first time——

Mr. EAGLETON. I did not understand the committee bill to prohibit or to make a person subject to a civil penalty if as a resident of the State of New Hampshire or other northern State he went into Canada and got a full tank of gas.

Mr. COTTON. That is the very query I am raising. I do not know.

Mr. EAGLETON. That is my understanding. I would like to ask the Senator from Washington (Mr. Jackson), and I join in the query of the Senator from New Hampshire, whether, under the committee bill as written, an individual in the northernmost New England States who crossed over into Canada and filled up his tank with gasoline in Canada, assuming rationing by that time had gone into effect, would be guilty of a civil violation?

Mr. JACKSON. Mr. President, my counsel advises me that the interpretation of the bill would be that there would be no violation, that we have no export-import limitations in the legislation, so it would not be a violation of law. The Senator from Missouri is correct.

Mr. COTTON. But the amendment offered by the Senator from Missouri uses the word "importation."

Mr. JACKSON. Let me add that there are mandatory export-import limitations in the mandatory allocation act and in the Alaskan pipeline bills, but not in this bill.

Mr. EAGLETON. The kind of importation referred to is commercial importation, not to a individual crossing the Canadian border to get gas for personal use.

Mr. AIKEN. If the Senator from Missouri will yield, does not this amendment give them the right to issue regulations?

It says:

For a prior violation of any order or regulation issued pursuant to this Act,...

Can they issue any order under this act that is not already in the law?

Mr. EAGLETON. The rulemaking authority under the act is delegated in certain regards. That is a standard legislative delegation. Any violation of those rules in certain instances can invoke a civil penalty. If done the second time, it becomes subject to a criminal penalty.

Mr. AIKEN. It says in the amendment——

Any person who knowingly and willfully violates this subsection after having previously been subjected to a civil penalty for a prior violation of any order or regulation issued pursuant to this act shall be fined not more than \$50,000 or imprisoned not more than 6 months, or both.

In other words, they can violate the law once? Is that correct?

Mr. EAGLETON. They can have one intentional violation which is subject to a civil fine. If it is done the second time, then it is subject to a criminal penalty.

Mr. AIKEN. What I was wondering was, could the language of this amendment be construed to permit rules or regulations to be issued which could be in conflict with the Tariff Act or customs laws?

Mr. EAGLETON. No; I do not think so, not unless the Tariff Act is repealed or amended by implication and I doubt that it is.

Mr. COTTON. I am sure that I quite understand the intent of the Senator's amendment and that it is a completely laudatory intent. It does not, however, insofar as I have been able to ascertain, draw any distinction between the importation of fuel or energy for commercial purposes for distribution, such as would be the case with the proprietor of a gasoline station and wholesale station and the mere act of an individual from my State who happened to be in Canada and got a chance to fill up his gas tank with gasoline for his own use at a time when stringent limits are applied to individuals. It seems to me that in order to have the amendment safe, a distinction should be drawn between a criminal penalty for a seller or a dealer by importing fuel illegally and an individual simply being across the line and filling up his own tank. That can well happen many times in a State such as mine. It seems to me that it is a little stringent unless that distinction is drawn.

Mr. EAGLETON. Mr. President, I think the Senator from New Hampshire is making a valid point. Therefore I ask unanimous consent to modify my amendment as follows, in order to satisfy the legitimate objection of the Senator from New Hampshire: On line 2 of my amendment, I ask unanimous consent to substitute the word "or" in lieu of the comma and to strike the remainder of line 2—"or import into the United States." So that the amendment would read:

To offer for sale or distribution in commerce any product or commodity.

All references to imports would be stricken.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none, and the amendment is so modified.

Mr. COTTON. I thank the Senator.

Mr. LONG. Mr. President, I should like to ask a question of the distinguished manager of the bill. I ask the Senator from Washington whether this matter was considered by the committee and what the committee's view was of this measure.

Mr. JACKSON. We have, of course, sanctions in the bill. We did not discuss specifically a criminal penalty such as is included in the Eagleton amendment. It was not discussed. I think that the way it has been modified now, it is a reasonable amendment.

Mr. LONG. Then, I take it that the manager of the bill favors the amendment.

Mr. JACKSON. Yes; I will support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. Hollings) the Senator from Massachusetts (Mr. Kennedy), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), the Senator from Montana (Mr. Metcalf), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), and the Senator from Georgia (Mr. Talmadge), are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Illinois (Mr. Percy), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "nay" and the Senator from Illinois would vote "yea."

The result was announced—yeas 72, nays 15, as follows:

[No. 485 Leg.]

YEAS—72

Abourezk	Fulbright	Montoya
Allen	Gravel	Moss
Bartlett	Griffin	Muskie
Bayh	Gurney	Nunn
Beall	Hart	Packwood
Bellmon	Hartke	Pastore
Bentsen	Haskell	Pearson
Bible	Hathaway	Pell
Biden	Helms	Proxmire
Brooke	Hughes	Randolph
Burdick	Inouye	Ribicoff
Byrd, Harry F., Jr.	Jackson	Roth
Byrd, Robert C.	Javits	Schweiker
Cannon	Johnston	Scott, Hugh
Case	Long	Stafford
Chiles	Magnuson	Stevens
Church	Mansfield	Stevenson
Clark	Mathias	Symington
Cranston	McClellan	Taft
Dole	McClure	Thurmond
Dominick	McGee	Tunney
Eagleton	McGovern	Weicker
Eastland	McIntyre	Williams
Ervin	Mondale	Young

NAYS—15

Aiken	Cotton	Hansen
Bennett	Domenici	Hatfield
Brock	Fannin	Hruska
Buckley	Fong	Scott, William L.
Cook	Goldwater	Tower

NOT VOTING—13

Baker	Kennedy	Sparkman
Curtis	Metcalf	Stennis
Hollings	Nelson	Talmadge
Huddleston	Percy	
Humphrey	Saxbe	

So Mr. Eagleton's amendment was agreed to. [Sec. 206(c).]

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. Moss. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUCKLEY. Mr. President, today we are engaged in a debate on a bill that is of the utmost importance to the Nation. We are asked to delegate to the the Executive extraordinary emergency powers in order to help us tide ourselves over the present energy crisis until such time as we are able to bring domestic demand and supplies into closer balance. During this period, enormous sacrifices will be asked of the American people and equally enormous authority will be vested in a few men and women over the rest of us. We will be told who is to receive which petroleum products, how many hours we will work, how fast we will drive, how we will schedule our airlines and buses and trains, and the temperatures at which we will keep our homes and places of employment.

Much, if not all, of these measures are without any doubt essential to meeting our short-term needs. They are, however, half measures that fall alarmingly short of meeting our real, most urgent needs in stimulating the most rapid feasible increase in energy supplies while unleashing forces that in the longer run will most effectively allocate scarce energy supplies while encouraging a maximum of voluntary conservation.

Neither the President's November 7 address to the Nation, nor the emergency energy bill comes to grips with our most urgent need; including the need to free up the economy so that high risk investment will once again flow into the business of finding and developing new sources of energy, and so that the magic of the marketplace will see to it that scarce resources find their way to their highest economic uses.

For some incredible reason, the whole discussion of the energy crisis has tended to ignore the fact that we find ourselves in our current predicament largely because of past governmental interference in the workings of a free economy. The direct cause-and-effect relationship between natural gas shortages and FPC price controls is too well documented to need elaboration here. Nor can it be doubted that we suffer from a serious deficiency in domestic refining capacity largely because of the disincentives to new refinery construction that resulted from the oil import quota program.

These self-inflicted shortages are now being compounded by the effects of the wage and price controls that have been imposed on the American economy during the past 2 years. These have had, among other effects, of depriving domestic exploration companies the added incentives to find new oil that would have been allowed to rise in response to normal market forces.

They have caused innumerable independent distributors of gasoline and fuel oil to go out of business, often leaving entire communities stranded without adequate alternatives; and now that the FPC and the Cost of Living Council have belatedly allowed some increase in the price for new oil and gas, those responding to these price incentives find themselves restrained by shortages in such essential items of drilling equipment as bits and casing that, in turn, have been caused by the effects of price regulation on the pattern of products produced by the steel industry.

Given these facts, it is difficult to understand how we can move towards emergency measures of a work authoritarian nature, however

essential in the short run, without at the same time liberating our economy and energy-producing industries from the contra-productive effects of wage and price controls.

The disastrous impact of these interferences in the workings of the marketplace are not limited to the energy crisis. Our fuel shortages, and the problems we face in overcoming them, are symptomatic of what can be expected in almost every sector of our economy as a result of the ill-considered attempt to cope with inflation by trying to apply band-aids to patch over the symptoms rather than to find cures for the underlying causes. While I would hope that the fact of our critical energy shortages would bring the basic facts home to the Congress, my fear is that the effect of these and other shortages will only be to reinforce the ranks of those who cannot see any solution to any problems other than the establishment of still tighter controls over the American economy and over the freedoms of the American people.

Mr. President, I believe we are approaching a watershed between a return to economic freedom and the extraordinary productivity and widespread material benefits that historically have been associated with that freedom, and an institutionalizing of layer upon layer of regulation, directives, and controls that can only remove the elasticity of our economy and create greater shortages at higher prices for the American people.

I do think that it is useful to remind ourselves of some of the effects of the kind of thinking that has led to wage and price controls.

Let me begin by asking a basic question. Why do we have wage-price controls in the first place? The desire to check inflationary forces or maintain consumer price stability for certain classes of consumers would seem to me to be the two most important reasons usually given by those who urge controls.

Yet, the universal experience here and abroad demonstrates that these measures will not relieve inflationary pressures. In fact, to the extent that they divert us from attending to the causes of inflation—namely, an excessive expansion of the supply of money—we build up pressures that in time burst out just as they have in this country during the past year.

Since the Nixon administration took office in 1969 we have had an opportunity to test the efficacy of controls. Between December 1970 and August 1971 when controls took effect the consumer price index grew at a 3.8 percent annual rate. After August 1971, the Nation has undergone the trauma of four phases of controls in various forms in a futile attempt to control prices. Since August 1971, prices have increased at a 10.9 percent rate with extraordinary dislocations imposed on an already strained economy.

The explanation is not difficult to find. In the 3-month period before controls, the Federal Reserve increased the money supply at our annual rate of only 5 percent. Since controls were imposed in August 1971, the money supply has increased at an average annual rate of 9.1 percent swamping efforts to impose controls on an economy which was overheated by a monetary policy fueled by over \$100 billion in Federal deficits in 5 years.

The effects of controls may be beyond calculation, but the symptoms of such dislocations is painfully evident in press reports every day. I

have collected a compendium of articles from newspapers and magazines in only the last 6 months to illustrate the harm done to virtually every sector of the economy by the imposition and retention of wage and price controls.

Mr. BUCKLEY. Mr. President, the shortages recited in the articles—shortages in foods, in news print, fuels, furniture, bottle gas, bricks, baling wire, food freezers, and a host of other products did not just happen. They were caused by the imposition of controls in a free market. When the market ceases to be free, when producers are not allowed to command fair return on the sale of their goods, they will stop producing the items they are not allowed to sell at prices commensurate with their costs and risks.

Nor is this merely a matter of devising a more effective regulatory machinery. Economic interrelationships are so subtle, so sensitive, that it is impossible for any body of regulators, however large, however wise, to anticipate how and where to mobilize the resources and set the prices so that our infinitely complex economy can work at maximum efficiency. Adam Smith's "invisible hand" is still the most reliable economic regulator known to man.

An axiom which has been raised to the status of a cliché among professional economists is that the one task economists can perform if given the power to do so, is to create a surplus or a shortage. In the 1950's and 1960's, economists were able, by raising the price of wheat through Government price supports above the price which the market would pay, to create the famous agricultural surplus of the period. Later, by simply attempting to set the price of agricultural commodities below the price consumers were willing to pay, they created the food shortage of 1973. The tragic frequency with which the consequences of attempts to control prices and wages by Government edict in recent years provides persuasive evidence that there is no administrative or procedural reform which can improve them. Wage and price controls by substituting the bureaucratic judgment of producers and consumers will create surpluses or shortages under any circumstances with the best of intentions on the part of all participants.

The time has come for the Congress to recognize that wage and price controls not only do not work—they cannot be made to work in a free society. The legislative authority the Congress conferred on the President has resulted in grave injury to our productive capability and the equity of its distribution without any significant offsetting social benefit. In short, wage and price controls have been an unmitigated disaster for the economy of the United States, and should be abolished forthwith.

Wage and price controls have not worked. The evidence is everywhere. Let us curb our pell mell race to multiply the controls already burdening our economy. Let us stop deceiving the American public by promising that we can regulate our economy into prosperity and abundance at stable prices. Let us instead face reality. Let us bite the bullet and restore to the American people the kind of free, competitive economy that has in the past and will in the future provide us with an abundance of goods at a price fair to all.

Mr. President, almost 200 years ago, Edmund Burke said that—

The people never give up their liberties but under some delusion.

In the face of our recent experience with the most authoritarian peacetime controls over our economy it is time that the Congress stop deluding itself and the American people that we can regulate an end to our shortages and inflationary pressures. The most constructive single action this Congress can take to help meet the energy crisis and to avert other shortages in other sectors of the economy is to vote the immediate abolition of the Economic Stabilization Act of 1970.

Mr. President, as my contribution to a truly effective emergency energy bill and as a contribution to a return to sanity in the management of our economic affairs, I herewith send to the desk an amendment that will have the effect of terminating wage and price controls.

The PRESIDING OFFICER. Does the Senator intend to call up his amendment at this time?

Mr. BUCKLEY. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment, as follows:

At the end of the bill, add the following:

"TITLE IV—MISCELLANEOUS

"Sec. 401. EXPIRATION OF ECONOMIC STABILIZATION ACT OF 1970.—Section 218 of the Economic Stabilization Act of 1970 is amended—

"(1) by striking out 'April 30, 1974' and inserting in lieu thereof 'on the date of enactment of the National Energy Emergency Act of 1973'; and

"(2) by striking out 'May 1, 1974' and inserting in lieu thereof 'on or prior to such date of enactment'."

Mr. BUCKLEY. Mr. President, I ask the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKLEY. Mr. President, I have stated the reasons for submitting the current amendment. I believe that we should not proceed with what, at best, will be half measures. This would delude the American public into thinking that by spreading controls and regulators across the land we will speed the time when we will move out of a state of emergency.

Yes. I agree that many of the provisions of the energy bill under consideration today are essential, so that there be authority next week, next month, the months immediately ahead, to see to it that we conserve, to the extent possible, our scarce resources and that we leave no community stranded without adequate supplies, without a share of the shortage.

But, Mr. President, that is just one side of the coin. We need at the same time to unleash those economic forces that can get this out of an energy crisis. This will require the investment of hundreds of millions of dollars, billions of dollars, of high-risk money in the search for new oil and new gas. It will require the mobilization of research and development resources far broader than those that can be mobilized by the Federal Government in an attack on the other problems—that is, new ways of gasifying coal, liquefying coal, and all the other sources of our other indigenous resources, so that as soon as possible we may become self-sufficient and free from the threat of blackmail from overseas.

But I submit that this cannot be done in a controlled economy. As I pointed out in my remarks, those who now find the incentive, be-

cause of some relaxations in the gas and oil prices, to drill are running short of equipment with which to drill.

The pending bill recognizes that the shortages exist. And the answer given to this matter is to authorize the President to determine who is going to get which drill bit or which casing.

But we do nothing to enable the marketplace, namely the demand for drill bits and casing, to be translated into the kind of prices that will cause United States Steel, Bethlehem Steel, or Republic Steel to change the mix of what they are producing. If we do not understand this elementary fact, then what we are passing today as a one-year emergency measure will need to be extended and expanded year after year until we have internationalized controls of a truly frightening nature.

THE PRESIDING OFFICER. The Senator from Oregon is recognized.

MR. HATFIELD. Mr. President, I am very happy to join with the Senator from New York (Mr. Buckley) in this attempt to attach an amendment to the energy bill which would repeal the Economic Stabilization Act.

I think that two Members of the Senate voted against the Economic Stabilization Act when it was passed by the Senate.

MR. BUCKLEY. Mr. President, I might point out that was passed before I entered the Senate.

MR. HATFIELD. Mr. President, I am glad that the record is made clear by the Senator from New York.

When Congress first passed the Economic Stabilization Act, we told the President, in effect, "You solve the economic problems of the country." That legislation gave us phases I through IV, with Pay Boards, Price Commissions, and Cost of Living Councils, prescribing controls, freezes and complex formulas, resulting in severe economic dislocations that have worked hardships on nearly every segment of American society—all without addressing the fundamental causes of our economic ills.

It is a simple truth that wage and price controls, in all their phases, have not worked. In approving that grant of power, Congress challenged the President to take such steps. This push from Congress, coupled with a favorable attitude of the public, combined to produce an Executive policy that has failed miserably.

But Congress has begun to grasp the magnitude of its abdication to the executive branch. We struggle to reassert ourselves in the budgetary process, in confirmation powers and as initiators of—not just reactors to—policy and programs. Why then, in one sweeping gesture, by giving the President the authority to impose vast new controls, is Congress again willing to give away its responsibility and power over more of Federal Government policy which affects so much of American life? An examination of this bill shows we are ready to abdicate great responsibility for the manner in which the country will deal with another critical problem, our immediate energy situation.

As I said to my fellow Interior Committee members, if you liked the Economic Stabilization Act, you will love this emergency energy bill. I cannot think of a single sector of our economic life that will not be under the direct control of the President or his agents. Drastic al-

terations of people's personal and business lives can be implemented at the stroke of a pen.

No one denies the seriousness of our energy problems, nor the need for creative solutions. I cannot understand, however, why Congress is so eager to throw away the leadership role it has established in finding solutions to our energy problems.

I will not enumerate here the positive steps the Congress and the Interior Committee have taken, in spite of a reluctant administration, on energy issues. As the ranking Republican on the Appropriations Subcommittee on the Public Works and AEC budgets, I have cited impoundment after impoundment of energy-related funds.

The administration should suggest specific programs, rather than seek a blank check. Congress should consider specific measures, not grant *carte blanche* authority.

In seeking solutions to our energy problems, Congress should continue to exercise its constitutional role in the Federal system. We can expect that after this bill is signed into law and soon after the first exercise of the enormous powers granted under this legislation, our legislative hoppers will be filled with bills to correct the new problems that the Executive's energy regulations are sure to bring. They will be sponsored by Members who will cite "congressional responsibility."

The preference of Congress to centralize power further in the Executive is a factor that has brought this country to its present political crisis. This is the very psychology Congress should reject. The distribution of powers between Congress and the Executive is well summarized in this quotation from Justice Brandeis:

Separation of powers was adopted by the convention in 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but by means of inevitable friction incident to the distribution of governmental powers among three departments, to save the country from autocracy.

Approval of this legislation transforms the phrase "energy czar" from a simple cliché to a chilling reality. Heating our homes through this winter need not be done at the cost of further entrenching executive autocracy.

In granting such sweeping powers in S. 2589 to the President, Congress ignores an energy record of which it can be proud. One myth that should be set aside is that Congress is unable to deal with such issues as the energy shortage. We have had before us recently two examples that show just the opposite. I refer to the Alaska pipeline bill, technically the Federal right-of-way, and the mandatory fuel allocation bill, S. 1570. The pipeline bill is on its way to the White House, and the mandatory allocation bill was passed yesterday by the Senate and it, too, is on its way to the White House. As a Senate conferee on both these bills, I believe they offer evidence that Congress is acting in a responsible manner to solve the energy crisis. The bills provide answers to both long-term and short-range problems. The pipeline bill deals with long-range problems of meeting energy needs, while the emergency fuel allocation bill addresses the current crisis. These represent legislated solutions that are constructive and forward-looking. Members of this body may disagree with certain provisions of one bill or the other, yet I think we should recognize that actions such as this provide evidence

that we can buckle down and provide some solutions to energy problems. We should not be on the defensive about what some claim to be inaction or unresponsiveness of Congress. That just is not the case.

Other Senate committees have worked on energy legislation, but I would repeat here what significant measures our Interior Committee has taken, in addition to the two mentioned above. During 1973, the Senate Interior Committee has reported four other major bills affecting energy. They are: S. 268, the land use bill; S. 245, the surface mining bill; S. 2176, the energy conservation bill, and S. 2589, the bill before us now. In addition, the energy research and development bill is at the markup stage. Hearings have been held and progress made on the deep-water ports bill, the strategic reserves bill, and the new geothermal bill.

As I mentioned earlier in these remarks, I know of energy-related funds approved by Congress and currently under the thumb of OMB and unspent to meet energy needs. An examination of this list offers further evidence that Congress has been moving ahead in providing funding for projects already authorized, only to see the funds impounded. On our Appropriations Subcommittee where I serve as ranking Republican—on Public Works and the AEC—our acting chairman, Mr. Bible, provided leadership in helping shape a bill that beefed up energy aspects of it, while cutting other segments of the administration budget request. The appropriations bill signed into law was below the administration's own budget request. This removes the charge from OMB that our subcommittee was in some way "budget busting."

When the list is examined, it shows OMB is sitting on some \$20 million in energy-related funds. One portion already has been put in "budgetary reserve"—OMB jargon for impoundment. Other funds have been scheduled for "tentative fourth quarter apportionment." Money in this class has a habit of dropping through the cracks into the next fiscal year, and represents funds that could be spent now.

The list shows we have been acting on energy issues. The impounded funds include:

	<i>Millions</i>
Geothermal research.....	\$4.7
Solar research.....	.6
Gas stimulation (plowshare).....	.8
Molton salt reactor.....	2.0
Fusion research.....	4.5
Los Alamos resources study center.....	.35
Prefinancing of above three AEC projects.....	4.3

The list of tentative spending raises special hackles for me for it includes \$3 million in funds desperately needed to begin construction of a second powerhouse at Bonneville Dam, on the Columbia River. A group of 13 other western Senators joined me in a strong letter to Roy Ash, of OMB, urging immediate release of these funds, but they have not been spent. Funding of \$900,000 for added power units at Little Goose and Lower Granite Dams on the lower Snake River also have not been released. I also know from service on the Interior Appropriations Subcommittee that OMB is holding up \$1.5 million for a pilot plant for hydrogenation—turning wood waste into low-sulphur oil. Even if we recovered only 10 percent of the waste left in the woods in logging or at the mills, studies show we could produce enough oil to equal the amount of heating oil sold in my State of Oregon.

At the time of eroding trust of all Government, I also question the wisdom of providing such *carte blanche* powers as are in this bill to one person, and providing for no citizen input in formulation of these far-reaching policies. The President, or his agents, will determine if certain steps are to be taken, how the steps should be taken, what priorities should be given—and the results could affect drastically the way we work and live. Under this legislation, these decisions are likely to be made behind closed doors, without public participation. Congressional review of specific energy proposals, however, allows such citizen input. The public would know it was their elected officials, and not some bureaucrats, that were shaping the legislation. I would add I am not suggesting that Congress should turn into an administrative agency handling the daily problems. In setting basic policies, we should give direction to those policies and shape the programs. These then could be administered by the various agencies and departments.

This lack of citizen input and the resulting isolation from the decisionmaking process touches upon another aspect of the problems between the Congress and the Executive. I need not belabor the obvious: the administration is operating under a cloud resulting from Watergate-related incidents. I respectfully raise the question of whether it is wise to add this additional burden on the executive branch at this time. When public acceptance of what may be severe alterations in their life styles is so critical, I do not believe this burden should be borne by the executive branch, which is suffering so deeply from a crisis of public confidence and trust.

In conclusion, I believe the thrust of this bill to be in error. We are abdicating our responsibility. Congress should consider legislation in these various areas; we should review past and new administration energy proposals; we should listen to citizen views. We—the Congress—should shoulder the responsibility for formulating short-term solutions to the energy crisis and continue our leadership role in devising long-range answers. I will repeat that a result of passage of this bill provides further entrenchment of Executive autocracy.

So I am very pleased to join with Senator Buckley in offering this amendment to get us out of another morass and another mess where we abdicated so much power to the President, by repealing the Economic Stabilization Act.

Mr. HANSEN. As the distinguished Senator from New York proposes in his amendment, let us take advantage of the economic facts of life to do something about supply. That is going to be the problem. It was the problem last week. It was the problem even before the Arabs shut off the oil flow to the United States.

In the opinion of every knowledgeable person who has studied the matter of energy supply for the United States, there is no denying that we all agree, even though the trouble in the Middle East were to be resolved tomorrow, this Nation because of its growing energy consumption and because of a parallel growth in energy consumption worldwide, will not have adequate supplies to meet all necessary needs.

I said early today that Dr. William Pecora, the late head of the U.S. Geological Survey, and following that assignment, Under Secretary of the Interior more than a year and a half ago said that, in

his judgment, there was enough oil and gas within the continental United States and on the Continental Shelf surrounding this country to see to the needs of America for possibly as long as 100 years, based on the consumption of oil and gas in this country in 1971.

I am disturbed, as I have indicated on previous occasions, by the fact that, with the exception of the Alaska pipeline, we have not yet, this year, done one thing specifically directed toward the increasing of supplies, with the exception of the passage of the stripper well amendment as proposed by the distinguished Senator from Oklahoma (Mr. Bartlett), which was made an amendment to the Alaska pipeline bill, and the research and development bill still in committee.

I do admit that if we pass a research and development program, the long-range effect will undoubtedly shore up the dwindling supplies of energy in this country, but for the short term, the most knowledgeable experts agree there is no way we can convert our energy needs from petroleum, which supplies more than three-quarters of all the energy we now use in the United States, from that source to coal.

Coal gasification, coal liquefaction, oil shale, geothermal energy, the breeder reactor are all further down the road.

This country is geared to a petroleum and natural gas economy. There is no way we can escape that fact.

It seems particularly unfortunate because of that fact that we do not seize this moment, now, to do something about supply, to take the steps that are called for in the editorial I just read from in the Wall Street Journal. We would be assured if we adopted—as I hope indeed we shall—the Buckley amendment, that this is good sense, that it will start the process of going in a new direction so that Americans can look forward confidently to the expectation that our energy situation will become less severe and less acute than it is now.

I hope that Senators, when they are called upon to vote on the Buckley amendment, will remember—if we need to be reminded, and I hope that we would not—that there is no way this legislative body or any other legislative body in the world, except in a completely controlled economy such as we find in Soviet Russia, can invalidate the laws of supply and demand. They are there. They are immutable. They will work as long as free people have the opportunity to express themselves freely and without coercion.

I would hope that we recognize, in voting for and supporting the Buckley amendment, what we are really doing, that is, to take the steps which will help to assure that America, indeed, will continue to be the land of the free. It is just that simple, Mr. President.

There is no way we can make rationing work in a peacetime economy without compounding our difficulties.

The story is this: We start without enough supplies of anything. We then decide we are going to divvy up among eligible and necessary users. Pretty quickly one segment, one individual after another, finds that he is hurt, that his home is cold, that he loses his job, because there was not enough energy to go around. So, any administrative authority starts making exceptions. It starts recognizing the fairness and the equity in an appeal made by some man or some group without enough energy to get the necessary job done.

It is not too long, during peacetime, until this situation magnifies itself more and more until we get to the point where there is not

enough fuel to go around to take care of all the necessary uses that have been recognized by the rationing authority.

At that point in time, the whole system breaks down. That is the bleak future to which Americans can look forward with reasonable expectation, if it occurs, if all we try to do is to spread the misery around and try to distribute insufficient supplies to begin with.

The Buckley amendment is a good amendment. It deserves our support. It makes sense. It will help to shorten the time when American may know without any doubt at all, despite what foreign countries may do, that there will be enough energy in this country to take care of America's necessary and essential requirements.

The Buckley amendment deserves the support of the Senate.

Mr. BROCK. Mr. President, I am a cosponsor of the amendment of the Senator from New York (Mr. Buckley) for any number of reasons, but I guess the most fundamental of all is that I have finally come to understand how easy it would be to feel sorry for the people of the Soviet Union with the inept bureaucracy that they must face every day of their lives and in every facet of their lives.

I have never in my life seen such confusion, compounded by incompetence, as exists in this particular area these days.

Two years and three months ago, the President sought the necessary imposition of wage and price controls on the American people. A lot of us rationalized that step by saying that we might accept it if the time used were used to address the fundamental problems of this country and not as an excuse for the continuation of governmental irresponsibility.

But no, that time was not used productively. We have gone from phase I to phase II to phase III to phase IV, compounding our problems as we go, making the situation worse and creating enormous hardships for the people of this country in the process, without dwelling on the fundamental, root causes of our difficulties.

Now we are being asked to continue wage and price controls and come up with an emergency fuel measure.

Let me illustrate the condition we are in today with a couple of examples on how you can get into a mess by trying to substitute the wisdom of 5 or 10 or 500 or 5,000 people in Washington for the collective judgment of the American marketplace.

We are short of propane and heating oil at the moment. We are short of natural gas. In other words, we are short of those ingredients which not only heat the home or drive the tractor, but also provide the feed stock for our petrochemical industries, as well as the feed stock for synthetic fibers in our textile industries.

We have a situation right now in this country in the textile industry in which a great deal of scrap is produced when they produce synthetic yarn. This scrap can be reprocessed into good synthetic yarn and used right back to produce shirts, clothes, sheets, and handkerchiefs. But we are exporting all our synthetic yarn scrap right now. Why? Because wage and price controls prohibit American manufacturers from buying that scrap on the marketplace. All of it is going to export and we are going to be short of shirts and sheets and socks this winter, as well as heating oil.

This summer, we announced a proposed list of priorities for distribution of heating oil and propane, and everybody thought it was a pretty nice list. We were going to take care of the households, the

schools, and the farmers. But some of us asked Governor Love, when he came on the job, "What about industry? What about the place where people work for a living, where they get the income to buy the heating oil?"

He said, "We hope to lengthen the list." They did not. Today, plants are closing in the State of Tennessee, because they cannot get these commodities.

I wonder what comfort it is to the workingman in one of those plants to be told, "We are going to ration heating oil so that you can heat your home," when he knows that he does not have a job, because he has been thrown out of work, because the priority did not go to the plant. So, not only does he not have the paycheck with which to buy heating oil, but also, he cannot even buy food for his children.

It is insane. It is insane to think that this Government is substituting its wisdom for that of 200 million people. We publish these regulations. We said here to the farmer, "You are going to be on the priority list, because we have to get these crops to the market; we have to feed the American people." What is happening? In Tennessee right now, farmers cannot get diesel oil. Why? Well, nobody knows why.

They call my office, and we tell them that there is an office in Nashville that they are supposed to call. We give them the number and the name of the man. They call, and he says, "I can't do anything but answer the telephone. We don't have time. But you can call Atlanta."

They call Atlanta, and Atlanta says, "We don't have any people down here; and if we did, we don't have any forms to send to you to fill out so that you can get an emergency allocation." So they come back to my office and say, "What do we do?"

Well, we have been trying to help. We got one form out of the office up here. It is incredible—one form. We took it to my office and put it on the telecopier to my offices in Tennessee, and we mimeographed it; and I am distributing forms for emergency distribution of fuel to farmers and wholesale fuel dealers, because the U.S. Government cannot do it. They send the forms in, and nobody is there to evaluate the forms, because they cannot hire anybody, because Congress has not given an appropriation to hire people.

I called the Administrator of the allocation program and said, "I can go to businesses, to the State government in the State of Tennessee, and get you some volunteers who will be more competent than anybody you can hire to put in this office. At least, let us process these forms." That was 10 days ago, and I do not yet have a response to my offer to provide them with help.

I have never in my life seen this degree of ineptitude exceeded at any level of government. I think it is time we started to take an honest look at the proposal of the U.S. Government for controls every time we get in trouble—controls on the American people. There have not been any controls on Congress in the last 10 years, when we have been spending money as though it were going out of style.

Now we say, "Let's blame the American people, because they are using all this energy." I cannot accept that. I cannot accept the fact that the American people cannot compete with anybody in this world, given an opportunity to do so. How do you compete with somebody when you have wage and price controls on you which inhibit your ability to reinvest your capital in new plants and equipment to increase your

efficiency? How do you compete when you have people in this country who are forced to suffer a loss in the day-to-day operation of their businesses, because we do not have the capacity to respond fast enough up here to lift the ceiling so that they can make a return on the time and investment they put into their efforts?

I simply cannot continue to tolerate these controls which so inhibit not only the free market, but also the free processes of the people of this country.

Why do we continually underestimate the American people? Why do we say, "You have to let us think for you; you are not capable of making your own decisions?" Why do we not turn them loose and let them have an opportunity to be productive again? The farmer proved that he can do it. The oil people will prove that they can do it, if they are given the opportunity. They will start building refineries if you get off their back. You will start getting some natural gas in the Northeast if you will take the ceiling off and let it be pumped up there.

Mr. BARTLETT. Talking about the problems of controls and causing problems that face an industry—particularly the little guy—I ask the Senator from Tennessee if the example of yesterday, in the passage of the allocation bill, which provides that refineries shall have a certain amount of crude oil, does not work to the disadvantage of those aggressive, small refineries which were faced with shutdowns earlier in the year and which did, through their own initiative of paying a higher price, when they could, increase their runs and their throughput, some to the point of a hundred percent, and now, with the passage of this bill in the Senate, if it became law, could be threatened with losing that amount of throughput and additional crude oil, because of a control passed by Congress.

Mr. BROCK. Absolutely. Apparently, there is something wrong with being aggressive these days and trying to make your way in the marketplace. Apparently, there is something wrong with guys who are working their hearts out to supply oil.

The trouble is that you penalize the person who has been doing a good job in the past, and you placate and in effect support the guy who has been fat and sloppy in his operation, because you put them on the same standard.

Please do not misunderstand what I am saying. There are some very fine people in this Government who are trying to do the best they can—on the Cost of Living Council, in the Department of the Interior, in the oil and gas and energy offices. I am not talking about the man. I am talking about concepts. There are not any men in this world who are smarter than 200 million Americans. There are not any men in this world who can substitute their judgment for the marketplace.

What happens is that you look at each of these little price control situations as if it were unrelated to anything else. We say that we are going to put a ceiling on this item, without realizing that, in this world today, we are interdependent on each other.

Everything that is done in one little company affects somebody else and it ripples throughout the country causing hardship and personal agony.

I thank the Senator from New York for offering an amendment of this sort. It may help focus attention on an unconscionable condition, the erosion of the free processes of this Republic, an unconscionable

ineptitude in the application of the law, and inequity in the application of the law. I think it is important to try as best we can, even though we may fail today, to call to the attention of the people the problem that is going to be with us for a long time to come if we do not do something about it.

Mr. BUCKLEY. I thank the Senator for his contribution to the issue involved in this amendment.

Mr. President, I take this opportunity to ask unanimous consent that the names of the following Senators be listed as cosponsors of the amendment: Senators Hatfield, Bartlett, Hansen, Brock, and Helms.

The PRESIDING OFFICER (Mr. McClure). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, there has been a great deal of dissatisfaction with wage and price controls. Many people recognize they work a hardship on the economy. I voted against wage and price controls when we were first asked to renew them by the administration in late 1971 or early 1972 because at that time I thought it would be hard to make them workable, and extremely hard to justify them. But it seems to me this Buckley amendment is not a responsible or wise way to proceed.

Let us consider what the Buckley amendment would do if it passes. It would wipe out all the provisions we now have to hold down prices in the construction industry, which have plagued us so seriously. Regardless of any criticism one wishes to make of wage and price controls, here is one industry where they have worked well. Before wage and price controls there were 15 and 20 percent increases in construction wages which had a high inflationary effect throughout the economy.

In the health industry we have a special task force and we have peculiar problems of shortages that have to be handled carefully and responsibly. The administration has worked hard to define and develop controls in the health industry, and they have pinched but worked reasonably well.

Those who vote for the Buckley amendment should be aware of what happens if it goes into effect. We experienced a similar price explosion in going from phase II to phase III. We found that moving from a mandatory to a voluntary system developed into an explosion of prices. This is not to say we should not take controls away as rapidly as possible. We should do everything we can to reduce controls by the end of the year and work hard to eliminate them if possible by April 30 next year; but it should be done in an orderly and constructive way and as Dr. Dunlop is proceeding.

In the fertilizer industry a very strong argument was made that this industry was greatly inhibited by controls and unable to expand and unable to meet the demand. One reason for high food prices was that; we could not produce fertilizer. Dr. Dunlop agreed they would be exempt from controls but only if they expanded facilities and production. That seems to be working and those familiar with that situation agree Dr. Dunlop has done well in this respect.

The Senator from New York quoted at length from Dr. Jackson Grayson and with enthusiastic approval. He is the former Price Commissioner and it is true that I was one of his critics. But he is an able man. He understands how controls operate. The Senator from New York quoted very approvingly of an article Dr. Grayson wrote

recently in the Harvard Business Review, an article in which he raised profound questions about controls, and said we should eliminate them as soon as possible. But I wish to call attention to the fact that in a more recent speech the same Dr. Grayson said that we should eliminate controls not now but only when the present excessive demand situation lessens in the economy; that the timing is extraordinarily important; that to take them off when demand is exploding, would be a serious error.

Let us take a look at the current situation in the economy. We have had a reduction in unemployment, which is now at the lowest level in 3 years, at 4.5 percent. We are moving into a situation where we have a surging demand-pull pressure on prices.

Mr. HANSEN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I shall be glad to yield in a moment.

For us to abolish controls across the board without giving consideration to the peculiar problems in construction, health, and other areas, and without giving the administration authority to negotiate so that as controls are eliminated production is increased, would be irresponsible.

Mr. President, I think I did get the floor. I was recognized by the Presiding Officer. I yield to the Senator from Wyoming for a question.

Mr. HANSEN. I thank my distinguished colleague.

The PRESIDING OFFICER. It is the understanding of the Chair that the Senator from New York yielded to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I interrupt what is an important element of this debate, out of deference to the Senator from Maine (Mr. Muskie) who has to catch an airplane. I would like to extend the debate long enough for him to introduce on behalf of the Committee on Public Works an amendment affecting the Clean Air Act, which is acceptable to the Committee on Interior and Insular Affairs, I believe.

Mr. PROXMIRE. Mr. President, would the Senator from New York agree that when the Senator from Maine completes his remarks I be allowed to complete my remarks?

Mr. BUCKLEY. Yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? Without objection, it is so ordered.

Is there objection to the amendment of the Senator from Maine being in order at this time? Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I send to the desk an amendment on behalf of myself and 14 members of the Committee on Public Works.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:
On page 34, line 9, insert the following new title:

"TITLE IV—CLEAN AIR ACT AMENDMENTS

"Sec. 401. Section 110 of the Clean Air Act, as amended (84 Stat. 1683), is amended by adding the following new subsection:

"(g) (1) During the period commencing November 15, 1973, and ending August 15, 1974, the Administrator is authorized to temporarily suspend any emission limitation related to control of pollutants resulting from fuel burning, or schedule or timetable for compliance with such emission limitation contained in any Federal, State, or local law, regulation, or requirement adopted under this Act as to any presently operating fuel burning stationary sources which is or would be in violation of such requirement due to actions ordered by the President under the National Energy Emergency Act of 1973, unless the Administrator determines that such suspension will present an imminent and substantial endangerment to the health of persons: *Provided*, That no such requirement may be suspended by the Administrator, unless the Administrator determines, (i) that such suspension is essential to enable redistribution of fuels to avoid or minimize violations of primary ambient air quality standards in another locality, or (ii) that the source does not or is not likely to have available, after implementation of all practicable measures in sections 203 and 204 of the National Energy Emergency Act of 1973, fuel which can be burned in compliance with such requirement. No suspension granted under this subsection shall extend beyond the period of unavailability of complying fuel and in no event beyond November 1, 1974.

"(2) To obtain a suspension pursuant to this subsection, the owner or operator of such a source shall submit to the Administrator an application for a suspension of the applicable requirement which demonstrates the need for the suspension, and which establishes that the applicant will maintain where practicable during the period of the suspension an emergency supply of fuel which complies with applicable requirements, in order to avoid presenting an imminent and substantial endangerment to the health of persons during periods of air stagnation. The Administrator on his own motion or at the request of the Governor of an affected State may initiate such a suspension for area sources.

"(3) In granting suspensions pursuant to this subsection the Administrator is authorized to reduce to ten days any Federal, State, or local time limits required for hearing procedures. In case of extreme emergency and with the concurrence of the Governor, such hearings may be waived. In all instances, he shall notify the Governor of the State, and the chief executive officer of the local government entity in which the affected source or sources are located and, to the extent practicable, the public.

"(4) Except as specified herein, any suspensions given under this subsection shall be exempted from any procedural requirements set forth in this Act or any other provisions of local, State or Federal law, and the granting of such suspension shall not be subject to judicial review under section 307 nor to any proceeding under section 304 of this Act. Nothing in this subsection shall affect the power of the Administrator to deal with sources presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act."

"Sec. 402. Subsection (a) of section 110 of the Clean Air Act, as amended (84 Stat. 1681) is amended by adding the following new paragraphs:

"(5) (A) The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard within the deadlines established pursuant in this Act. In making such determination the Administrator shall consider any current or anticipated suspensions under subsection (g) and any projected shortages of fuels or emission reduction systems. Upon making a determination the Administrator shall notify the State and require revisions of the applicable plan or portion thereof. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision is disapproved the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan not later than November 1, 1974.

"(B) The owner or operator of any fuel burning stationary source may request a revision of the implementation plan with respect to such source. The Administrator shall approve such revised plan, after public notice and opportunity for hearing, but within 60 days of such request, if he determines (i) that the owner or operator of such source is able to enter into a contractual obligation to obtain a continuous emission reduction system which the Administrator determines has been adequately demonstrated, or into a long term contract to

acquire fuel of sufficiently low sulfur content to implement applicable air quality standards, and (ii) that modifications with respect to such source are consistent with the implementation plan for the attainment of ambient air quality standards and are in accordance with the provisions of subparagraph (D) of this paragraph; *Provided*, That, the approval of the Administrator shall be contingent upon the owner or operator of such source entering into such a contractual obligation or long-term contract. Any such revision shall be incorporated into any plan revised pursuant to subparagraph (A) of this paragraph.

"(C) Notwithstanding subparagraph (a)(2)(11) of this section, a State may initiate a revision of its implementation plan consistent with the provisions of subparagraph (D) of this paragraph. The Administrator shall approve or disapprove such a revised plan within 120 days after submission.

"(D) Such revised plans shall include legally enforceable compliance schedules for such fuel burning stationary source or sources, which schedules shall specify continuous emission reduction measures to be used to achieve compliance, interim steps of progress, and alternate interim control measures to minimize the emissions of pollutants pending final compliance with applicable emission limitations. Actions taken under this paragraph shall be taken in accordance with procedures prescribed in this Act and shall be subject to judicial review in accordance with the Act; *Provided however*, That the final date for compliance for sources regulated under this section may not extend beyond July 1, 1977, except in the case of extensions granted pursuant to subsection (f) of this section.

"(E) The Administrator shall report to the Congress by May 1, 1974, on the extent to which any applicable State or local air pollution requirement or deadline may adversely affect the implementation of the National Energy Emergency Act or of this paragraph.

"(6) In order to minimize the need for suspensions under subsection (g) of this section and to provide for interim compliance under paragraph (5)(D) of this subsection, the Administrator is authorized and directed to redistribute within an area designated pursuant to section 203(b)(1) of the National Energy Emergency Act, after consultation with the Secretary of the Interior, allocated fuels on a sulfur content basis to insure, to the maximum extent practicable, that such fuels are utilized in a manner that will minimize adverse effects on health.

"(7) The Administrator may take such actions as are necessary to assure that emission reduction systems are first provided to users in air quality control regions with the most severe air pollution except that no such action shall affect existing contracts."

Mr. MUSKIE. Mr. President, last Friday I introduced legislation on behalf of myself and other members of the Committee on Public Works to facilitate the capability of the Environmental Protection Agency to do its share to deal with the energy crisis. At the time the bill was introduced, the Committee on Public Works agreed to hold early hearings on the proposal and to complete consideration of the legislation at an early date.

On Monday, November 12, the Subcommittee on Air and Water Pollution, which I chair, took nearly 8 hours of testimony from the Administrator of the Environmental Protection Agency, Russell Train; the president of the Sierra Club, Laurence I. Moss; two representatives of the National Resources Defense Council, Mr. Richard Ayres, and David Hawkins; the vice president of the National Coal Association, Mr. Robert Price; and the Commissioner of the Department of Air Resources for New York City's Environmental Protection Administration, Mr. Fred Hart. While the record of that hearing is not printed, a transcript is available. That transcript will reveal an in depth analysis of the implications of proposed amendments to the Clean Air Act, both in terms of the energy emergency and protection of the public health.

Today I am proposing an amendment jointly sponsored by all members of the Committee on Public Works which reflects the deliberations of the committee.

Witnesses proposed a number of important improvements in the legislation to assure minimum disruption of air quality programs while assuring adequate authority to deal with the energy crisis.

Witnesses proposed that emergency authority provisions retain, except in extreme cases, the requirement that a public hearing be held before an emergency suspension was granted. The amendment which we report today adopts that recommendation.

Witnesses proposed that the amendment waive only procedural requirements set forth in the Clean Air Act. The amendment before the Senate includes that recommendation.

Witnesses proposed that the time limit on emergency suspension be extended from 6 months to 1 year. The amendment before the Senate accommodates that proposal by extending the period for application for a suspension to 9 months and allows an emergency suspension to continue until clean fuels are available or November 1, 1974, whichever comes first.

Witnesses proposed that there be a positive burden on the Administrator to review State implementation plans to determine the extent to which existing emission requirements and compliance schedules need revision in light of the fuel shortage. The amendment before the Senate would require the Administrator to complete a review and initiate plan revisions by May 1, 1974.

Witnesses proposed that implementation plan revision occur on a precise time schedule with an adequate opportunity for States to initiate and complete the process themselves. The amendment provides the States with an opportunity to act first but requires completion of the revision process by November 1, 1974.

Witnesses expressed great concern for the possibility that air quality standards would be violated on a regular basis during the time needed to comply with new regulations. The amendment before the Senate specifically requires the Administrator to set forth, in revised implementation plans, specific interim measures including alternate control strategies to minimize "the emission of pollutants pending final compliance with applicable emission limitations."

Witnesses stressed the importance of providing the Environmental Protection Agency Administrator with authority to require redistribution of low sulfur fuels to assure minimum adverse effect on air quality during any suspension period and to assure that plants located in metropolitan areas receive available supplies of low sulfur fuels. The amendment before the Senate includes authorization for the Administrator to redistribute low sulfur fuels which have been allocated to areas of the country by the President.

Mr. President, if there was one theme in the hearings held by the Subcommittee on Air and Water Pollution, it was that conservation should precede degradation. All of our witnesses concurred in the need to place a high order of priority on protection of public health. All witnesses concurred that all practicable measures to conserve energy as required by the National Energy Emergency Act should be taken before air quality is sacrificed.

The amendment before the Senate today provides specifically and I quote that—

No such requirement—referring to emission limitations and compliance schedules under the Clean Air Act—may be suspended by the Administrator unless the Administrator determines—that the source does not or is not likely to have

available, after implementation of all practicable measures in section 203 and 204 of the National Energy Emergency Act of 1973, fuel which can be burned in compliance with such requirement.

This is a clear statement of the commitment of the Committee on Public Works that clean air to protect public health must take precedence over temporary inconvenience associated with conservation requirements.

Mr. President, the amendment that is offered unanimously by the members of the Committee on Public Works recognizes the limitations the fuel crisis imposes on our ability to meet the deadlines adopted as a result of the 1970 amendments to the Clean Air Act. The amendment recognizes that in the near term, this winter, an all-out effort must be made to overcome our shortage in the last disruptive fashion, providing maximum protection for all citizens in their homes and on their jobs—while accepting short term disruption in clean air efforts. In the long term, these amendments are designed to eliminate our reliance on the vagaries of foreign fuel supply as the basis for pollution control.

The amendment sets forth a procedure to move fuel burning stationary sources of pollution from emission control programs based on imported low sulfur oil to continuous emission control programs based either on stack gas control technology or long term contractual commitments to domestic low sulfur coal supplies.

The strategies required by this amendment may in some instances delay the achievement of the emission reduction goals of the Clean Air Act by 2 years. In return for that delay, the Committee on Public Works is asking the Senate and the Congress to support the imposition of requirements that will assure the American people a technological or contractual commitment to clean air on the part of utilities and industries.

This amendment is intended to increase national energy self-sufficiency. It should provide the basis for our domestic coal industry to begin to make long term investments for new, safe, deep coal mines, and environmentally acceptable surface mines.

Mr. President, the amendment attempts to deal with the situation created under the emergency legislation when an owner or operator of a fuel burning stationary source is directed by the President to convert a facility to a higher sulfur fuel, where that conversion will cause a violation of air quality requirements. Under the amendments, immediate relief is provided through the emergency variance procedure. The owner of a converted source will have until November 1, 1974, to obtain a revision of the clean air implementation plan which sets forth the manner in which that converted source will comply with air quality requirements.

The provision permits an owner to initiate a plan revision before the procedural requirements of the act take effect. The amendment provides the Administrator with authority to approve plan revisions for owners of converted sources contingent upon that owner's contract obligation either to obtain a continuous emission reduction system or a long term contract for low sulfur fuel. This provision should assure sources required by the President to convert fuels sufficient time to meet their air quality requirements.

Mr. President, I would like to spend a moment discussing continuous emission reduction systems. Under this proposal there are only two ways to proceed to comply with the revised plan—through the application of stack gas scrubbers or through a long term contract for supply of low sulfur fuels.

So-called supplementary control system and intermittent control strategies are not substitutes for these requirements. They may be useful as interim strategies before the final date for compliance with revised plans but they are not to be considered permanent measures for compliance with those plans.

Mr. President, there are other features of this amendment which I have not discussed in detail. We have attempted to preserve, to the extent that we could, the role of the States in the development of air quality programs.

We have provided, at the request of Gov. Daniel Evans, chairman of the National Governors Conference, authority for the States to initiate variances for area sources of pollutants, that is, sources to which implementation plans apply generally rather than specifically.

We have provided that hearings on emergency variances can only be waived with concurrence of the Governor of the affected State.

We have provided authority for the States to initiate immediate revision of implementation plans to establish new compliance schedules for primary and secondary standards implementation. We have, in effect, attempted to preserve the intergovernmental fabric of the Clean Air Act to the extent that this emergency will permit us.

As I have said before, this amendment is sponsored jointly by all 14 members of the Committee on Public Works. Most of the members participated yesterday in morning and afternoon mark-up sessions. It is our collective judgment of the best mechanism to facilitate the Environmental Protection Agency Administrator's capability to modify air pollution requirements to get over the immediate problems posed by the energy crisis.

As I said at the time I introduced my bill last Friday, this legislation would be "an undesirable but apparently necessary setback for our environment." This is still true. But with the assurance that energy conservation must necessarily precede environmental degradation, I ask my colleagues to support its adoption.

I ask unanimous consent that a description of the amendment as well as a section-by-section analysis be printed in the Record.

There being no objection, the statement and analysis were ordered to be printed in the Record, as follows:

DISCUSSION OF INTENT

The intent of section 1 of the Committee's amendment is to provide the Administrator of the Environmental Protection Agency with the flexibility needed to meet the immediate energy problems likely to accompany changes in kinds of fuel used by stationary sources. Our aim is to allow the authority necessary to provide temporary variances under circumscribed conditions. The Administrator may accomplish this by adjusting emission limitations, compliance, timetables, or a mixture of the two. It is the intent of the Committee that such variances be carefully limited to cases where variances are absolutely necessary. Specific conditions are necessary before the Administrator's authority can be triggered.

Primary among these is the requirement that low sulfur fuels must be distributed in a way that minimizes the pollution problems of that area. Until this is accomplished, the authority to grant variances cannot be exercised. This is an essential part of any strategy to minimize the pollutions effects of this winter's energy adjustments.

In any case, no variances may be allowed if granting them would present an imminent and substantial endangerment to health.

By allowing the granting of variances until August 15, 1974, the Committee intends to establish a logical target for a Congressional review of the issues involved in this legislation. To wait longer would push Congress up against the fall Congressional elections and too close to the winter of 1974-75. The Committee intends variances granted to be effective until November 1, 1974.

In subsection (g)(2) the Committee has attempted to establish a procedure that will allow individual operators, Governors, or the Administrator to initiate the action leading to the granting of a variance, where practicable, the source to receive the variance will be required to maintain an emergency supply of clean

fuel. The purpose of this is to protect against air pollution episodes caused by periods of air stagnation that would endanger health.

The Committee also proposes authorizing flexibility in the application of procedural requirements under the Clean Air Act. Hearings are required generally but they can be called on ten days notice. In emergencies and with the Governor's concurrence hearings may be waived. But in no case may action be taken without notification to State and local officials.

The intent of the amendment before us is to preserve the procedures of the Clean Air Act as much as is possible. Where the emergency dictates otherwise, basic minimum procedures must still be followed.

The purpose of section 402 is to fold the variances granted into a new State implementation plan process as smoothly and rapidly as possible. This will allow necessary planning to proceed quickly and will provide certainty to the parties involved as soon as possible.

It is imperative that the deadlines for review and submission of revisions be met so that proposed revisions, hearings and promulgation of final changes be completed by November 1, 1974.

The Committee wants to provide an assurance that investments in new emission control devices will be protected. It also wants to insure that commitments to install these devices will be realized within a certain time period after the variances are allowed so that efforts to clean up the air will not receive a permanent long-run setback. In order to accomplish this purpose Section 402 calls upon the Administrator to make an assessment of the adequacy of the emission control device or the availability of low sulfur fuel, whichever is proposed to bring the source in question into compliance with the State's implementation plan. If these are determined to be sufficient, the Administrator must approve the revision, contingent upon a contractual obligation for such devices or fuel.

The Committee wants to insure that efforts to achieve air quality standards continue forward with as little disruption as possible. In order to accomplish this purpose, Section 402 requires that plans revised as a result of this amendment must maintain the requirement of continuous reductions in emissions from stationary sources during the interim period before final compliance is achieved on July 1, 1977.

The Committee believes that variances can be greatly minimized this winter, and that interim progress toward final compliance can be maximized by a wise allocation of low sulfur fuels to sources presenting the most acute emission problems. The Secretary of Interior is required to consult very closely with EPA on the matter, and rely heavily on its expertise in this area.

Allocation will follow a two-step process, and EPA must be consulted closely at both steps. Under the first step the President allocates fuel to general areas of the country as provided in section 203 of the pending bill. The second step permits redistribution of fuel to sources within these regions by the Administrator. The Committee envisions careful intraregional distribution of low sulfur fuel based on the detailed information presently available to EPA. Such distribution can substantially minimize the adverse health effects of the adjustments necessary.

An essential aspect of implementing the changes required by the present energy will be responsible action by all of the States in reviewing the requirements of their clean air implementation plans. The structure of the Clean Air Act is built upon a cooperative program of Federal-State-local action. The pressures of the present crisis, however, have the possibility of creating inequitable actions among states that may indicate the need for Federal preemption. Because of this possibility the Committee's amendment requires EPA to report to the Congress by May 1, 1974 on the possible need for further Congressional action on this matter.

Should the demand for pollution control devices outstrip the available supply during the present energy emergency, the amendment provides EPA with authority to encourage, and if necessary, allocate the distribution of such devices on a priority basis to sources contributing to the most imminent health hazards. It is not expected, however, that the authority to establish an actual allocation system will need to be set in motion.

SECTION-BY-SECTION ANALYSIS, AMENDMENT OF COMMITTEE ON PUBLIC WORKS

This amendment adds a new title IV to S. 2589. The new title contains two amendments to section 110 of the Clean Air Act, which requires the development of implementation plans to achieve and maintain ambient air quality standards within deadlines specified in that section.

Section 401 adds a new subsection (g) to section 110 of the Clean Air Act. This new section authorizes the Administrator of the Environmental Protection Agency to temporarily suspend emission limitations related to the burning of fuel for any fuel burning stationary source which is or would be in violation of such emission limitations due to action under the National Energy Emergency Act. Suspension may be granted between November 15, 1973, and August 15, 1974, with any suspension terminating when complying fuel becomes available, or no later than November 1, 1974. A suspension cannot be granted if the Administrator determines that it would present an imminent and substantial endangerment to the health of persons. Suspensions may be granted only where the suspension is essential to enable redistribution of fuels to minimize violations of air quality standards protective of public health, or where complying fuels are not likely to be available even after full implementation of the energy conservation measures authorized in S. 2589.

Subsection (g)(2) requires an owner or operator of a source applying for a suspension to demonstrate the need for the suspension, and, where practicable, the applicant is required to maintain an emergency supply of clean fuel for use in air pollution alerts during the period of the suspension. The Administrator may grant a suspension for area sources (e.g. commercial and domestic heating units) on his own motion or at the request of a Governor.

Subsection (g)(3) provides for expedited hearing procedures of 10 days or less, and for the waiver of any hearing requirement in extreme emergencies where the Governor concurs. Notice to affected government officials and, to the extent practicable, the public is required.

Subsection (g)(4) exempts such suspensions from any other procedural requirements of Federal, State or local law. The granting of suspensions is exempted from the judicial review and citizen suit provisions of the Clean Air Act. The emergency powers of the Administrator under the Clean Air Act are specifically preserved.

Section 462 amends section 11(a) of the Clean Air Act by adding three new paragraphs. Paragraph (5) provides for revisions to implementation plans to take account of inadequate supplies of clean fuels. Subparagraph (A) requires the Administrator to review each State's implementation plan by May 1, 1974, and notify the State of any required revisions. States must submit plan revisions by July 1, 1974, and the Administrator must approve or disapprove the submitted revisions by September 1, 1974. Where he disapproves the State-submitted revision, the Administrator must promulgate a revised plan by November 1, 1974. The Administrator's actions must follow public notice and opportunity for hearing.

Subparagraph (B) provides that the owner or operator of a fuel burning stationary source may request a plan revision for such source. Within 60 days of such a request, the Administrator must approve the plan revisions if the owner or operator is able to enter into a contractual obligation to install a continuous emission reduction system or a long term contract for low sulfur fuel, and the modifications are consistent with attaining ambient air quality standards. Approval of the plan revision is contingent on the owner or operator actually entering into the contract.

Under subparagraph (C), a State may initiate a plan revision on its own, regardless of any limitations on considering revisions now in the Clean Air Act. Action on such revised plans must be taken by the Administrator within 120 days after submission.

Subparagraph (D) requires revised plans to include compliance schedules specifying continuous emission reduction measures to achieve compliance, interim steps of progress, and alternate interim control measures pending final compliance. Actions under this paragraph are made subject to the procedural requirements of the Clean Air Act. The final date for compliance by any source converted by this section would be July 1, 1977. This represents an extension from presently required compliance dates of mid-1975 in many cases, under section 110(a) (2) (A) (i) of the Clean Air Act and retains the single extension of one year which may be granted in accordance with section 110(f) of the Clean Air Act.

Subparagraph (E) requires the Administrator to report to the Congress by May 1, 1974 on the extent to which more stringent State or local air pollution laws may adversely affect the implementation of the National Energy Emergency Act or the implementation plan revision procedure of this amendment.

Paragraphs (6) and (7) provide authority to the Administrator to assure the distribution of allocated low sulfur fuels and emission reduction systems to users so as to minimize adverse effects on health. Existing contracts for the purchase of emission reduction systems are preserved.

Mr. MUSKIE. I wonder if we could have the yeas and nays ordered while we have enough Senators in the Chamber.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. RANDOLPH. Mr. President, in the amendment offered by the Senator from Maine, I think we have achieved a consensus and have conceived an approach by our committee which is in complete agreement with the legislation. In a sense, it backs up what we are attempting to do in reference to the solution of the severe fuel shortages which face us now and will increasingly be upon us as a people in the months ahead. Again I commend the Senator from Maine.

Mr. President, the energy shortage faced by our country has many ramifications beyond the need to keep warm and to maintain economic viability. The bill reported from the Interior Committee, S. 2589, is a response to the country's immediate needs for coping with the energy shortage in its present manifestations. It provides a number of approaches to conserving anticipated fuel resources and channeling them to areas where they can be most beneficially used.

In meeting this challenge imposed by diminishing fuel supplies, we must also consider the impact on other Government programs. Three years ago the Committee on Public Works developed, and the Congress passed, the Clean Air Act. This was significant legislation and established this country's commitment to ending the pollution of the air we breathe. Substantial progress has been made since that time in implementing the programs authorized by that act. The result has been a general improvement in the quality of air.

In responding to the energy crisis, however, we must realistically recognize that temporary modifications in the air pollution abatement program are needed.

Under agreement with Senator Jackson, chairman of the Committee on Interior and Insular Affairs, the Committee on Public Works has developed legislation to provide variances under the Clean Air Act to assist in ameliorating the immediate energy shortage. Legislation to accomplish this purpose was introduced last Friday as S. 2680. This measure was introduced by Senator Muskie, and has the cosponsorship of the other 13 members of the Committee on Public Works.

A hearing on S. 2680 was conducted Monday of this week. Testimony was received from the Environmental Protection Agency and other concerned groups.

The measure was discussed thoroughly in a lengthy meeting of the committee yesterday which was attended by 12 of our 14 members. The measure was ordered reported to the Senate and is offered today as an amendment to S. 2589.

Mr. President, this amendment will provide the necessary authority to grant certain variances in the Clean Air Act. Primarily, and most immediately, it permits under certain conditions, the temporary suspension of emission limits relating to the burning of fuel in stationary sources if necessary because of the existing fuel shortage. An expedited administrative procedure also is provided so that these variances can

be put into effect expeditiously. This authority is granted from November 15, today, until next August 15.

In addition, procedures are provided for reevaluating air pollution abatement implementing plans and possible modifications on a longer range basis, through mid-1977, with an optional extension for an additional year.

The exceptions to the Clean Air Act provide what the committee believes to be the necessary authority to cope with this winter's energy crisis. I emphasize, however, that they in no way undermine the basic integrity of the Clean Air Act or the programs carried out under its authority. The Committee on Public Works is committed to the achievement of clean air as a vital goal in this country. In this regard, I do not believe that there is any basic conflict between environmental enhancement and the important questions of long-range energy supplies.

The Committee on Public Works will continue to examine this issue and work for further refinements in the air pollution program to assure that it does not unnecessarily inhibit the achievement of adequate and environmentally sound air standards.

Mr. President, this amendment is an essential part of the total legislative package needed at once and I urge its adoption by the Senate.

Mr. MUSKIE. May I say to the Senator from West Virginia that it has been a pleasure to work with the distinguished Senator from Washington on this legislation, which involves the jurisdiction of both committees.

I understand members of the Public Works Committee would be represented in any conference which may be necessary on this measure to be sure the committee is represented in this particular phase of the legislation.

Mr. JACKSON. Mr. President, first may I respond? We will, of course, when we get around to the appointment of conferees, be delighted to arrange for the Public Works Committee to designate its members, both majority and minority, as it relates to this title.

Mr. BUCKLEY. I thank my colleagues from Maine and West Virginia. I do want to say it has been an extraordinary pleasure to work on this particular item with them. I believe that we have been able to come up with legislation that recognizes the fact of an emergency and the need to shorten some of the procedural safeguards, but from the standpoint only of the requirement to move immediately, so we could proceed with this legislation. To make sure that, in no event, will health be endangered, care was taken that, to the extent that we had to eliminate some of the procedural processes, that was only for a limited period, so that long-range procedures must not be curtailed in accordance with the act itself. So, I believe that this is responsible legislation and effective legislation.

Mr. President, I ask unanimous consent on behalf of the Senator from Tennessee (Mr. Baker), who is necessarily absent today, that his statement on this matter be printed at this point in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR BAKER

I am pleased to join in supporting these amendments which the Committee on Public Works has just reported.

We are facing severe shortages of energy both this winter and, I fear, for the longer term as well. These are not shortages caused by the demands for clean air nor can amendments to the Clean Air Act do much to alleviate the situation. But to the extent that shortages of fuel and particularly clean fuels—or the inability to allocate fuels as precisely as we would wish—require temporary changes from our course toward improved air quality, the Clean Air Act must be adjusted. The amendments which we propose today make such adjustments, but they in no way signal an abandonment of our national commitment to clean air.

These amendments provide for the limited and temporary suspensions of emission limitations which likely will be needed this winter due to Presidential orders under the National Emergency Petroleum Act. However in no case will a suspension be allowed that would present an imminent and substantial danger to human health. The administrator will also have to determine either that the suspension is essential to allow redistribution of fuels to meet health related air quality standards in another locality or that a source, after all practicable fuel conservation measures have been taken, cannot obtain clean fuel. This is a very careful and prudent provision which will ensure that all essential suspensions can be granted but that the air we breathe will not be polluted needlessly in any instance. The bill preserves a full measure of coordination with state and local officials and a careful regard for due process of law in the granting of suspensions, albeit with short deadlines that recognize the urgency with which the Administrator may have to act.

To provide for adjustments required by longer term shortages of energy and the need to convert to such dirtier domestic fuels as coal, the bill requires the administrator of EPA, by May 1, 1974, to review all state implementation plans under the Clean Air Act, in the light of clean air standards, current or anticipated suspensions, and expected shortages of fuels and of emission reduction systems. EPA then is required to notify the states of any needed changes, and, in cases where a State does not submit an adequate revised plan, to promulgate a revised plan for the State by Nov. 1, 1974. Owners or operators may request revisions of plans on their own motion. Such revisions may be approved by EPA after notice and hearing if the Administrator determines that the source is able to enter into a contract for a demonstrated continuous emission reduction system (for example a stack gas scrubbing system for sulfur dioxide) or a long term contract for clean fuel that meets the standards and that the requested revision is consistent with the implementation plan under the Act.

These requirements will help prevent a full scale switch to high sulfur coal without adequate provision for installation of emission control equipment. It also provides some incentive to mine and use the large existing supplies of Eastern and Western low sulfur coal where industry so chooses.

There is also limited new authority for EPA to redistribute clean fuels within an area and to assure that in case of conflicting priorities, emission reduction systems go to users in the air quality control regions with the most severe air pollution.

These provisions clearly represent not a retreat from clean air but an advance toward achievement of clean air with due recognition of our growing energy problems.

In this respect they are a signal achievement of the legislative process at its finest and a particular credit to the distinguished Chairman of the Committee on Public Works (Sen. Randolph), the most able Chairman of the Subcommittee on Air and Water Pollution (Senator Muskie) and the distinguished ranking minority member on the Subcommittee (Sen. Buckley). These and a number of other Senators on the Committee worked carefully but quickly through a full day of hearings and two markup sessions to achieve these amendments. I am most proud to be associated with their efforts and to urge the prompt adaption of these amendments by the Senate.

THE PRESIDING OFFICER. The question is on agreeing to the amendment.

MR. DOMENICI. Mr. President, if the Senator will yield for a moment, I do not want to take the time unnecessarily because the concern for this legislation has been expressed far better than I could do. I would like, however, to indicate as the junior member of the committee

my appreciation to the Senator from New York (Mr. Buckley), the Senator from Tennessee (Mr. Baker), the Senator from West Virginia (Mr. Randolph), and all other Senators who worked so hard to prepare this matter that we are not retreating. I would say that we are holding the line. Since we achieved such historic legislation as the Clean Air Act, we know how difficult it was to get to this point. When I say that we are holding the line, it is a compliment to those who are truly concerned about a proper balance and not overequating one against the other. We are going to relax, but it is not a retreat.

We are taking every precaution to make sure that those must all balance on the scale here.

We have heard much evidence and have boiled it down into a very good emergency measure, temporary in nature and as protective as we could be under the circumstances.

I was pleased to be part of this effort.

Mr. President, the amendment now being considered, an amendment which I cosponsored, represents a step that the members of the Public Works Committee have taken very reluctantly. We have been reluctant to take this step because we fully realize that it could be seen as a step backward in our efforts to reduce air pollution.

The Public Works Committee, Mr. President, has worked too long, too hard in setting this Nation's course for achieving clean and healthy air to take lightly any diversion from that course. I can take little credit for this diligence, perseverance and far-sightedness, having only joined the Public Works Committee at the beginning of this session. The diligence of the committee is no more vividly illustrated than by the rapid action taken on this amendment and I applaud the leadership of our chairman (Mr. Randolph), our ranking minority Member (Mr. Baker) and the leaders of the Air and Water Pollution Subcommittee (Mr. Muskie and Mr. Buckley). I have been on board long enough now and I have worked and agonized enough with the committee on the monumental problems of regaining a healthy human environment to associate myself with its past efforts and join ranks with the other members in their determination that not even an energy crisis as grave as the one we now face will open the floodgates of pollution.

The point I would emphasize, Mr. President, is that the step we are taking through this amendment is more of a holding action than a retreat and more importantly, it is for a fixed and limited duration. It is also important to note that before any relaxation of standards may be permitted, there must be proof that fuels which would meet the standards are not available and that all conservation measures required by S. 2589 have been taken. In other words, deviation from established standards will be conditioned on a genuine shortage of cleaner fuels, not on any of the other many reasons that could be found. To me this is both a reasonable requirement on the source of pollution and a safeguard against pollution increases unrelated to the shortage of clean fuels.

In the longer term, Mr. President, this amendment provides the means to modify State implementation plans to permit the use of coal so long as the source commits to a timetable for installation of stack-gas cleaning equipment or some other effective device by mid-1977.

This flexibility, this option, is essential to facilitate the shift of our emphasis from using cleaner fuels to cleaning up coal burning plants. The debate on whose fault it is that has brought us to this point and which now requires this modification, is one I will pass today. I will simply say that we now have an opportunity to concentrate on the more effective long-term approach—to use our abundant fuels and clean them up as required—and get on with it, all of us. To my mind, this amendment provides that opportunity and I urge prompt adoption of this amendment.

Mr. MUSKIE. Mr. President, I appreciate the comments made by the distinguished Senator from New Mexico who is indeed a valued member of the subcommittee and the full committee. He makes a point that I think is important, which emphasizes that in many ways pressures of the present time are running against those who are concerned about the environment and some of the actions proposed for easing the pressure of the energy crisis, but we are not beginning to retreat from the gains we have made through many years.

I think the Senator from New Mexico has accurately described the legislation. I think it responds to those areas of the country where the pressures have developed. This legislation will enable us, insofar as legislation ever can, to meet the exigencies of the current crisis without abandoning the long-term goals represented in the Clean Air Act.

Mr. President. I appreciate the comments of the Senator, and I yield now to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank the Senator from Maine for yielding to me. I rise to make one observation.

I think the thrust of his remarks, taken with the energy crisis now before us, is to the effect that there has been some turning away by some of those who were advocates and still are of the Clean Air Act and the other measures which seek to protect the importance of our environment.

Do I correctly understand that the Senator essentially implied that?

Mr. MUSKIE. Mr. President, the Senator is correct. That implication is very real.

Mr. HANSEN. Mr. President, I would like to observe that basically all of us are environmentalists. I yield to no one in my concern and deep conviction that we must and indeed will clean up the air and the water and beautify the landscapes, remove litter, and see that if we damage or scar the land, we repair those scars.

The point I want to make is that despite my strong belief in the continuing wisdom of this crusade that has sometimes been referred to as an expression of ecological concern or environmental concern, I think what really is in focus today and before us today is our trying to achieve these long-range objectives on the one hand and on the other trying to address a very critical situation.

I would say to the extent I have participated in trying to get some accommodation so as to take note of the fact and deal with the harsh realities of today's life and recognize that there is not enough gas to go around, that indeed we will have to make some accommodation, as has been so eloquently stated by the Senator from Maine.

Mr. President, I would like to point out that I will not interpret the actions some of us have taken who believe in the deep philosophical

commitment, and I will not interpret our present objectives and solutions as a retreat at all from our dedication to these long-term goals.

I have five grandchildren, as the Senator knows. I would hope very much, as I know the Senator hopes very much, that we may have a better world tomorrow.

In the meantime, I want to help, as I am sure the Senator does, to see that we have warm houses today and jobs today, because without those nothing else is too meaningful.

For those of us who live in the colder parts of the United States, in the wintertime when one gets up, if he finds that the fire has gone out or that someone has left the door open, that is where the environment starts, right in one's own home. And it will start there for many Americans if we run out of fuel or if we do not take some steps that will prevent the shortage of fuel from becoming a reality. I hope it will not be a reality.

I thank the Senator from Maine for his recognition of the fact that we do have to take notice of these situations and pass laws to support our long-term goals for America. And those efforts deserve the support of all of us.

I thank the Senator.

Mr. MUSKIE. Mr. President, I thank the Senator from Wyoming. I accept that statement as a statement of a deeply committed and concerned Senator.

We sometimes have apparent differences in objectives and we sometimes disagree. However, disagreements on questions such as these often relate to differences in perspective rather than differences with respect to goals.

Let me make this very brief statement. There are many who are now saying that they saw this energy crisis coming months, years, and even decades ago. They say that everyone else now sees it as clearly as they did.

Let me point out that there are four essential resources with which we are involved in this legislation: energy, air, water, and land. The four are limited. They are finite. We happen to face a crisis with respect to energy. Those limitations are the first to hit us in a traumatic way. However, to the extent that the others also are taxed beyond their capability, we will come upon similar crisis when their supply runs out. And the fact is that in many places in this country, water now is no longer in sufficient supply. In many parts of the country, air is not in sufficient supply for those who need to breathe healthy air. So this energy crisis is really a forewarning not only of the limitation in our energy resources, but is also evidence of potential further similar crises regarding other resources. We must be alert to these threats as we try to dispose of this legislation.

It is in that sense that I accept the Senator's statement. Of course I do. I would seek to communicate to the Senator and to the other Senators whatever insights and observations I happen to have with respect to those matters which fall within my jurisdiction. I hope that all Senators will recognize that these four are one, and that we must learn to balance all of them.

Mr. HANSEN. Mr. President, I would like to say that the Senator from Maine has always stood for uniformity in the solution of the problems facing America and has been a very knowledgeable person insofar as our earth is concerned.

I would observe only that one of the shortcomings I find in the bill that disturbs me is the fact that while it is true that most of the things we know about are indeed finite—I would say that they are finite at least to this extent: when we talk about petroleum resources, when we talk about fossil fuels, which of course includes petroleum, when we talk about uranium, or when we talk about oil shale, we are talking about finite things, just as we undoubtedly are when we talk about geothermal steam; I would say the one exception might be solar energy. At least it is a continuing thing, and whether or how quickly we may be able to turn it to our use will depend upon our dedication and our ingenuity—in the short term, though, I would hope the Senator might share my sentiments that it makes good sense for us as Americans and citizens of this world, bound in large measure by finite resources, that we extract every drop of oil out of those known reserves we now have, that we leave none in the ground because for economic reasons it seemed imprudent to bring it above the ground.

In this one area, the area of supply, there are those of us on the Interior Committee who find the bill before us and others deficient in that respect. We think it makes good sense for Americans, as citizens of this country and as world citizens, to see that we waste no single source of this most important commodity. I would hope the Senator might share that feeling.

Mr. MUSKIE. Mr. President, I think the Senator will find that there is a great disposition on the part of the Senate, including the Senator from Maine, to get behind the new kinds of perspectives and programs we must have.

Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, I am voting against this amendment because we are dealing with a bill that is limited to one year and specifically addressed to the immediate emergency now facing our Nation. In this emergency, I do not believe those entities ordered to utilize alternative sources of fuel should be required to comply with the normal procedures of the Clean Air Act. I supported the Clean Air Act, and I still would support it in normal times. Furthermore, in the years ahead, it may be necessary to require major energy users to be able to utilize more than one type of fuel. To do so would, in my opinion, require longer than 1 year and would be such a drastic step that the normal processes of administrative procedure should be complied with.

The original committee bill contained protections necessary for the emergency period of 1 year—that, in my opinion, is the approach that should have been maintained by the Senate. This amendment in and of itself contemplates that permanent changes may be ordered involving a permanent shift from one fuel to another because of a temporary emergency. Therefore, I cannot support the Public Works Committee amendment, for I believe a short-term, limited exemption from the

Clean Air Act without burdensome administrative procedures is all that is required in this act.

Mr. HART. Mr. President, I intend to vote against this amendment not because I am convinced it is a bad amendment but rather because I am not convinced it is a good one. The step advocated by it is an extensive one. It carries us nearly 5 years beyond the termination of the emergency declared by the bill before us. All other features of the legislation save those dealing with coal conversion and the clear air provisions now before us expire with the expiration of the emergency. With respect to these expiring provisions, I believe our rush to judgment on this bill to be justified. But with respect to the extension provisions of the Clean Air Act contained in this amendment, I believe prudence dictates more thorough examination.

Mr. President, the amendment under consideration became available only this morning. I would venture to say that many of us will not be familiar with its provisions or even with the fact that it applies years beyond the emergency. To roll back a landmark piece of environmental legislation under these circumstances strikes me as unfortunate.

True, the emergency we are confronted with demands quick action. Some argue that we cannot deal with that emergency in the coal-conversion area without taking the far-reaching steps proposed. Yet I do not think the record is clear on this point. I am not persuaded that the risks to clean air implicit in the amendment can be justified. Until we have greater assurance on these questions, I would oppose the amendment.

The PRESIDING OFFICER (Mr. McClure). The question is on agreeing to the amendment of the Senator from Maine (Mr. Muskie). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Illinois (Mr. Percy), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is detained on official business.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Illinois (Mr. Percy) would each vote "yea".

The result was announced—yeas 83, nays 2, as follows:

[No. 486 Leg.]

YEAS—83

Abourezk	Ervin	Metcalf
Aiken	Fannin	Mondale
Allen	Fong	Montoya
Bartlett	Goldwater	Moss
Bayh	Gravel	Muskie
Beall	Griffin	Nunn
Bellmon	Gurney	Packwood
Bennett	Hansen	Pastore
Bentsen	Hartke	Pearson
Bible	Haskell	Pell
Biden	Hatfield	Proxmire
Brock	Hathaway	Randolph
Brooke	Helms	Ribicoff
Buckley	Hruska	Roth
Burdick	Hughes	Schweiker
Byrd, Harry F., Jr.	Inouye	Scott, Hugh
Byrd, Robert C.	Jackson	Scott, William L.
Cannon	Javits	Stafford
Case	Johnston	Stevenson
Chiles	Long	Symington
Church	Magnuson	Taft
Clark	Mansfield	Thurmond
Cook	Mathias	Tower
Cranston	McClellan	Tunney
Dole	McClure	Weicker
Domenici	McGee	Williams
Dominick	McGovern	Young
Eastland	McIntyre	

NAYS—2

Hart

Stevens

NOT VOTING—15

Baker	Hollings	Percy
Cotton	Huddleston	Saxbe
Curtis	Humphrey	Sparkman
Eagleton	Kennedy	Stennis
Fulbright	Nelson	Talmadge

So Mr. Muskie's amendment was agreed to.

The PRESIDING OFFICER (Mr. McClure). Under the previous order, the distinguished Senator from New York (Mr. Buckley) is now recognized.

Mr. BUCKLEY. Mr. President, I take this opportunity to ask unanimous consent that the names of the two Senators from Arizona (Mr. Fannin and Mr. Goldwater) be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I ask unanimous consent once again to suspend the continuing debate on my amendment so as to permit the Senator from Utah (Mr. Moss) to present an amendment which I understand is acceptable to the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, the Senator from Utah (Mr. Moss) is on his way to the Chamber. I therefore suggest that the Senator from Wisconsin (Mr. Proxmire) continue his comments until the Senator

from Utah arrives in the Chamber, if that is agreeable to the Senator from Wisconsin.

Mr. PROXMIER. Mr. President, the Buckley amendment would repeal the Wage-Price Stabilization Act. It would repeal it, wipe it out. Many of us are opposed to wage and price controls. I voted against wage and price controls when they were first put into effect, but we should be careful and responsible and consider what the far-reaching effect would be. It could have an immediate and substantial inflationary effect.

The fact is that the administration can end controls today, right now. Why have they not done so? Because they recognize what will happen. The administration is not irresponsible. Their memory goes back at least to last January, when we, in effect, did forego mandatory controls and moved, in effect, to optional or voluntary controls. What happened? We had an immediate, serious inflation, and we are still paying the price of that inflation.

I think we have to recognize that we still have inflationary conditions. In fact inflationary conditions are probably worse now than they have been at any time in the past 3 years. We not only have shortages in the fuel area but also in the food area, in paper, in chemicals, in many skilled labor areas. The unemployment level is the lowest it has been in some 3 years. It is almost at a historic low for married men.

If the Buckley amendment is agreed to, it will have an adverse effect—no question about it—a serious effect, a punishing effect, on the bill; because one of the most inflationary parts of our Society has been the health services, the cost of medical services. That has been effectively regulated under wage-price controls and almost everybody agrees with that.

I would agree that we could go a long way toward decontrol—perhaps 80 percent, perhaps 90 percent; but to do it this way, and go right across the board in cutting out controls on construction, on health, and on these other areas that are so serious, could be a grave mistake. At the very least, we ought to permit time for an orderly transition.

Should we have guidelines after these controls are eliminated? A number of economists have argued, and argued persuasively, that we should have.

I think most Members of Congress respect greatly Dr. Arthur Burns, the Chairman of the Federal Reserve Board. He has argued that we ought to have a permanent wage-price review board, not with any mandatory power, but with the right at least to make findings and recommendations, so that we will be in a much better position to monitor inflation in the future and to act promptly.

But this amendment would not permit even consideration of any of that.

The real argument against this amendment is that it is unprinted; it is an unprinted amendment on a very profound subject. What does that mean? It means we have not had a chance to think about it, to study it. I was informed about it only about an hour ago, and I am sure that other Members were only informed about it recently. There have been no hearings, no report, no record, no evidence of any administration position on it, although it probably is the most serious economic proposal that has come before this body in some time. Certainly, it would have a more immediate effect and a more serious effect

on 200 million Americans than any action we have taken in a long time.

Under the circumstances, I hope that when the leadership moves to table the amendment, Senators will see fit to support the tabling motion.

Mr. HANSEN. Mr. President, I understand and appreciate the concern of the distinguished Senator from Wisconsin in saying that while there are good, strong philosophical arguments to bring about the freeing of our economy, as would be accomplished in this bill, he questions it. I think he referred earlier to how our economy had been responding to the low level of unemployment in the United States. I believe those were some of the references he made.

I share those precise concerns with the distinguished Senator from Wisconsin, and I point out that nothing is more critical to our employment picture in the United States than energy. That is the No. 1 thing.

Japan is deeply disturbed about the fact that they will probably have to cut back, close factories, lay people off, because Japan took a fairly neutral stand in the Middle East and, as a consequence, has suffered some embargo by the Arab countries in the shipments of oil that normally would go from the Arab countries to Japan.

I think that makes all the more sound the reason that we ought to turn this economy loose now, in order that it can respond.

Mr. PROXMIRE. I think the Senator makes a very strong case, but I believe we should have hearings on it, a record on it, and know what the facts are.

The testimony of Dr. Arnold Weber, the first head of the Cost of Living Council, appointed by President Nixon, is that in the short run, in all these areas, you do not increase supply by abandoning controls. It takes a substantial amount of time. Meanwhile prices soar.

Let me say one other thing in that connection. The effect of this amendment on the economy was explained by Dr. Weber in hearings before our committee, when he said this:

It seems to me—you know, if you do away with controls, does that mean that we are going to have a 12 percent interest rate on short-term money, and a reduction in money supply of two percent? Does it mean that we must have a budget surplus of \$10 billion in order to bring about stability? What I am saying is that the fact of incomes policy creates a situation where the mix of fiscal and monetary policy can be different, because there is a notion that some of the burden is being borne by controls.

Dr. Weber may be completely wrong. He is a very able economist. He has had a good deal of experience in the Government and on the outside. He may be wrong. But I am saying that before we act on an unprinted amendment, brought in at the last minute, on which the administration has had no opportunity to take a position or give us their views, we ought to have some kind of record, at least a day or two of hearings, and know what we are doing. This is a very profound, far-reaching action on our part.

Mr. HANSEN. I agree that it is. I say to the Senator from Wisconsin that I am sure he and I do not disagree on what we think the objectives of Congress should be as we direct our attention to addressing national problems. I must say that the chairman of the Committee on Finance, the Senator from Louisiana (Mr. Long), is here, and we have had hearings on issues similar to this for a long time.

We can have bigger hearings, and they will be well attended. They will be filled by people out of work, wondering when we are going to get enough energy so that they can get their jobs back. The hearings probably will have to be held during daylight hours, because there may not be enough lights on at night. This is the prospect. If we want to delay it, we can do so.

All I can say is that when you are in a bad situation, the time to start getting yourself out of it is now. I think that now is the time to start. If we want to delay, we certainly will generate interest in this subject, because we will have all kinds of people who are wondering what happened to their jobs. Energy is the essential ingredient of jobs in America.

Mr. JACKSON. We do have a previous unanimous consent agreement.

Mr. HANSEN. I know.

Mr. JACKSON. The Senator from Utah is here, I wonder if the unanimous consent agreement could now be put into effect, so that the Senator from Utah could be recognized in order to offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah is recognized, to present his amendment.

Mr. MOSS. Mr. President, I call up my amendment No. 649.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 19, Committee Print 4, beginning at line 3: Delete section 306 in its entirety and substitute therefor the following new section 306:

Sec. 306. (a) Part VII of subchapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is hereby amended by redesignating section 219 as section 220 and by inserting after section 218 the following new section:

“SEC. 219. REPAIR OR IMPROVEMENT OF TAXPAYER'S RESIDENCE

“(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the ordinary and necessary expenses paid during the taxable year for repairs or improvements, which will reduce heat loss in winter and heat gain in summer, to property used by the taxpayer as his principal residence. Such repairs or improvements may include, but not by way of limitation, the addition of insulation, storm windows, caulking, humidifiers, and other efforts designed for energy conservation.

“(b) LIMITATIONS.—The deduction allowed a taxpayer under this section shall not exceed \$1,000 for any taxable year. No deduction may be allowed under this section with respect to any capital expenditure.”

“(b) The table of sections for such part VII is amended by striking out “Sec. 219. Cross references.”

and inserting in lieu thereof

“Sec. 219. Repair or improvement of taxpayer's residence.

“Sec. 220. Cross references.”

“(c) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (8) the following paragraph:

“(9) REPAIR OR IMPROVEMENT OF TAXPAYER'S RESIDENCE.—The deduction allowed by section 219.”

Sec. 2. The amendments made by this Act shall apply to the 1973 taxable year and every taxable year thereafter until otherwise provided.

Mr. MOSS. Mr. President, I modify my amendment by adding the language which appears in the mimeographed copy of the amendment which is on the desk of each Senator. I ask unanimous consent that my amendment be so modified.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

On Page 26, after line 9 insert after section 208 the following new section:

SEC. 209. (a) Amendment of Internal Revenue Code to Allow Deductions for Energy-Conserving Alternations of Taxpayer's Residences. Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as 220, and by inserting after section 218 the following new section:

"SEC. 219. ENERGY-CONSERVING IMPROVEMENTS OF TAXPAYER'S RESIDENCE

"(a) IN GENERAL.—A taxpayer may elect to treat energy-conserving residential improvement expenses paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction for that taxable year. An election under this subsection shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulation.

"(b) LIMITATION.—The deduction allowed a taxpayer under this section for any taxable year shall not exceed \$1,000.

"(c) DEFINITION.—For purposes of this section, the term 'energy-conserving residential improvement expense' means any ordinary or necessary expense paid or incurred during the taxable year for repairs or improvements, designed to reduce heat loss in winter and heat gain in summer, to property used by the taxpayer as his principal residence, and includes, without being limited to, the installation of insulation, storm windows, caulking, humidifiers, other efforts designed for energy conservation, and any device or system designed to utilize solar energy to provide heating or cooling which meets performance criteria established by the National Bureau of Standards."

(b) The table of sections for such part VII is amended by striking out

"SEC. 219. ENERGY-CONSERVING IMPROVEMENTS OF TAXPAYER'S RESIDENCE

"Sec. 220. Cross references."

(c) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (9) the following paragraph:

"(10) Energy-conserving improvements of taxpayer's residence.—The deduction allowed by section 219."

SEC. 2. The amendments made by this Act shall apply with respect to taxable years ending after the date of the enactment of this Act.

Mr. Moss. Mr. President, this modification was proposed by the Senator from California (Mr. Cranston). I ask unanimous consent that his name may appear as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Moss. Mr. President, this is a simple amendment to add a new section 209 in title II of S. 2589 to provide assistance to the taxpayers who are being asked to conserve energy.

In addition to the low interest rates to homeowners provided by section 307 of title III, my amendment would provide a tax deduction of not more than \$1,000 for the ordinary and necessary expenses paid during the taxable year for repairs or improvements which will reduce heat loss in winter and heat gain in summer to property used by taxpayer as his principal residence.

I introduced this measure as S. 861 in February of this year and at that time Senators Hart and McGee joined in that bill.

At Senator Cranston's suggestion, I have added to the amendment a provision to allow any device or system designed to utilize solar energy to provide heating and cooling as a deductible expense also.

At the suggestion of the Senator from California I have added to the amendment the provision which has been accepted as a modifica-

tion. The thrust of the Cranston amendment is to provide that any language which appears in the mimeographical copy of the amendment for heat addition or cooling could make the same claim as one who applied insulation in accordance with the provisions of my amendment. This has to be in accordance with regulations that are approved by the National Science Foundation, so it could not be an experimental sort of addition. It would have to be one effective and recognized as an energy-saving device.

Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from California (Mr. CRANSTON) explaining that addition.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR CRANSTON

I am pleased to join with the distinguished Senator from Utah in sponsoring this amendment to S. 2589. It is consistent with the purposes of S. 2589, for not only must we provide authority, impetus and direction to the President as he formulates plans to cope with the energy emergency, we must also provide incentives to our citizens to comply fully with the national effort to conserve our scarce fuels. One major step that can be taken for immediate savings by individual homeowners is the installation of storm windows, improved insulation and other easily accomplished structural improvements.

In addition, the amendment we offer would extend the tax deduction to include the installation of equipment designed to use solar energy for heating and cooling. I would like to speak briefly to this point, as I have been working hard to move this technology toward wider utilization. Potentially, the energy savings that can be accomplished by supplementing conventional heating with solar heating is substantial.

Approximately, 25 percent of the energy now consumed in the United States, according to recent testimony of the National Science Foundation, is used to heat and cool buildings and to heat hot water—at an annual cost of some \$18 billion. And the use of energy for these purposes is growing rapidly, with air conditioning being incorporated into 40 percent of all new building construction. Studies have indicated that solar energy could provide at least half of the energy needed for heating single-family dwellings in most regions of the United States. The potential savings through the use of solar energy for heating and cooling could amount to as much as 35 percent of our annual consumption of fossil fuels and an annual dollar saving of some \$12 billion by the turn of the century. These savings, instituted now, could be exceedingly important in our over-all energy budget.

And in the immediate future, even a small saving could be a substantial help during this winter's fuel emergency. A one percent saving in home energy consumption, for example, would be the equivalent to some 100 million barrels of oil a year, according to a recent Congressional Research Study.

The major obstacle to the use of solar energy for heating buildings is the high initial cost of installation. Combined solar heating and cooling systems face no major technological barriers, but have yet to be fully perfected for small scale use. Nevertheless I believe the language should be broad enough to cover combined systems since the technology is so near to perfection. And with respect to the cost of solar heating, when averaged out over a life-cycle basis, such systems can save the homeowner substantial amounts on his annual fuel bills, in addition to saving the nation its scarce fuels.

As a concrete example of fuel and dollar savings, there is a solar home right here in the Washington, D.C. area which serves as an excellent example. Harry Thomason, a local resident and builder of several solar heated homes has designed and installed a solar heating system for about \$2500. While this is about \$1500 more than the cost of a conventional heating system, he is able to keep his house at a comfortable 70 to 72° during Washington, D.C., winters using only 40 to 50 gallons of supplemental oil per winter. This compares to 700 or 800 gallons of oil per winter for a conventional house. By saving 80 to 90 percent on his oil bill each year, it is only a matter of time before the solar heating system pays for itself.

Mr. President, I believe the energy emergency we now face is a serious one. I also believe that we must anticipate inconveniences and sacrifices on the part of individual citizens that may extend for several years. Consequently, as the Congress grapples with measures to allocate and ration scarce fuels and to step up our research and development of domestic fossil fuel reserves as well as new sources of energy, I believe it is also essential that the Congress extend to the individual homeowner the means to improve the energy efficiency of his home. That is the purpose of this amendment. I hope the Senate approves it.

Mr. Moss. Mr. President, the consumer is faced with an avalanche of difficulties as a result of the energy crisis. He is being asked to conserve and faces increased costs all along the line in every facet of the energy field.

It seems to me that the encouragement we give him in saving the wasted energy in his house is one of the greatest things we could do to help us get through this crisis.

There is no doubt that present national waste of energy is a disgrace. And there is also plenty of evidence available to show that energy can be saved in this area of heating and cooling by more than half. The Nation could save 15,300 trillion Btu's of energy in the next 10 years by improved thermal insulation of homes and apartments. This step alone could make a major contribution in solving the national energy shortage.

I think this is a good amendment and one that is very helpful. In this bill, we are talking about conserving uses of energy, and that is what this is about. We have to go on in connection with research and development measures to find out how we can add energy to our energy supply, but as a conservation measure I think this could be a great contributor at this time.

Therefore, I urge the adoption of the amendment.

Mr. Brock. I understand the amendment would allow every homeowner a \$1,000-a-year reduction for energy-conserving residential improvement expense.

Mr. Moss. That is correct.

Mr. Brock. And really there is virtually no limit to the kind of improvements that could be made. This is a very broad definition which includes insulation, storm windows, caulking, humidifiers. What is the relation of humidifiers?

Mr. Moss. That is the effective means of controlling the energy loss in a building by treating and it is a contributing factor and is useful in that regard if it makes a contribution which applies along with storm windows, insulation, weather stripping, and whatever else.

Mr. Brock. I am sympathetic to what the Senator is trying to do, but it looks to me as if it would create a loophole that one could drive a truck through. It looks as if every homeowner would qualify. This goes on and on.

Mr. Moss. This is tied into the appropriate sections of the Internal Revenue Code.

Mr. Brock. This is not for 1 year.

Mr. Moss. It is for 1 year, for the life of the bill.

Mr. Brock. No. The way it is written it would be an amendment to the Internal Revenue Code, and that is a permanent amendment.

Mr. Moss. It is the intention that it would expire when this bill expires. It is an energy conservation measure.

Mr. Brock. I am not sure it does that.

Mr. Moss. I would be glad to accept language to make that clear, it does expire with the bill.

Mr. JACKSON. It would be my understanding that this is only for the life of the bill. I think that language could be added at the end of the amendment, that it will expire on that date. The amendment could be perfected or amended to provide that the provisions of this section or sections shall terminate upon the termination of the act that we are amending, the pending bill.

Mr. Moss. Mr. President, I ask unanimous consent that I may modify my amendment by adding the words at the end of section 2: "and shall expire upon the termination of this act."

The PRESIDING OFFICER. The Senator has the right to modify his own amendment. The amendment is so modified.

Mr. JACKSON. May I say that there are some questions with the House because of the constitutional provision, but I would hope we could accept this amendment and take it to conference and then decide the best course of action.

Mr. FANNIN. Mr. President, I concur with the chairman of the committee. I commend the Senator from Utah. I understand there are some problems as far as the amendment is concerned, technical problems, but the intent, I know, is proper and would assist the general goal we have in this legislation.

The PRESIDING OFFICER. The question is an agreeing to the amendment.

The amendment was agreed to.

Mr. Moss. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I wish to say to the Senator from Wyoming in respect to this point, as follows. He pointed out the shortage of steel and the fact it is hard to get pipe and other material for increased production of oil. The steel industry has been operating close to capacity and they said there is little they can do in the next 3 or 4 years to provide much increase. It is hard for us to import more steel. Of course, that is not covered by the wage and price controls for us. So in this way it is hard to see how the Buckley amendment would help provide us more steel or other fundamental materials that they need for the oil industry.

What this amendment does, however—and it seems to me as we debate this question it is becoming clearer and clearer—is to indicate that the only way we could possibly justify taking the price controls off oil is to take them off all the rest of the industries.

Mr. HANSEN. I think that would be a good idea.

Mr. PROXMIRE. When we do that, we are in the position that our committee has evidence that it is going to take a long time to get an increase in the production of oil. We could have a large increase in the price of a barrel of oil but it would take 3 or 4 years to be in a position where we would have more explorations and more reserves flowing and greater production.

For those reasons, it would seem to me this is no time to put this legislation on the fundamentals on a short-term approach. There are

going to have to be a greater number of research and technological projects before we get to a solution of the problem.

Mr. HANSEN. I say to the Senator from Wisconsin, the fact is that while it is true that the steel companies may in some instances be producing fairly closely to their capacity, they are not producing enough oil well casings. The reason why they are not producing enough oil well casings is that other kinds of steel, because of the activities of the Cost of Living Council, have been put at different price levels, which has made it more profitable for the steel companies to produce.

If we took the price controls off, I would say to the Senator from Wisconsin I think it would be one of the greatest things we could do. It would be to take them off everything. I am for that. I will support legislation to take them off completely. The program has been a dismal failure. We are finding that out every day. Right today, the oil well pipe suppliers of this country are exporting used pipe. Why are they doing that? They are doing it because it is resold for more profit abroad, in foreign countries, than it brings right here in the United States.

The oil well pipe supplies who handle scrap iron, and that sort of thing, are going to sell their product where they can get the most profit. The fact is that some of his material will bring more profit from abroad than here, and that come about because of the Cost of Living Council's controls on prices.

I think if we were to take price controls off completely, we would have the force of the market bring about an adjustment in the products the steel companies are making, so that we would make it possible for the oil producers to get the casings they so badly need.

Mr. PROXMIER. The reason Dr. Grayson, who made a plea for the free market, said we should wait until the present boom market eases, is that if we ease off price controls, the oil industry will be in there, with higher prices, but so will other companies compete for the availability of the steel.

I hesitate to bring this up at this time, but the Banking and Currency Committee is now marking up export control legislation which will give the President, to the extent he needs, the authority to do exactly what the Senator from Wyoming points out, so that we do not lose our scarce materials to foreign countries when we need them here at home.

It is a mare's nest, and I agree we would be happier if we did not have it; but in the short run, with the economic situation we have, for us to knock off all controls at the present time, without the record the Senate should have, without the courtesy to at least give the administration an opportunity to tell us what effect it would have, seems to me to be unwise and irresponsible.

Mr. HANSEN. I appreciate what my friend from Wisconsin has said. I would point out that what we are doing is the response of Congress or of any legislative body in trying to legislate against the immutable facts of supply and demand.

In times of war and in times of a great national emergency—and this may develop into that before we are through, but in times of war, such as in World War II—people went along and cooperated,

grudgingly and oftentimes painfully, but nevertheless we made a poor system work, because there was the compelling realization that, in addition to all other reasons, it became the patriotic duty of everyone to do that.

There is not now that conviction or unanimity in America. That has been dramatically illustrated. As a consequence, we have the automobile industry making 10 million cars—I am not sure of the number—this year. It is going to be ironic indeed if the industry makes more cars than there is gasoline to run them. That is about where we are.

So it is not a question of the steel industry not having the raw materials to make the steel pipe to drill oil wells; it is the ineptitude that invariably results when we try to do legislatively what can better be done by letting the free marketplace operate and letting people, by putting their dollars where their wants are, express those wants.

Mr. PROXMIRE. May I say one more thing, Senator?

Mr. HANSEN. May I make one further observation? Then I shall be happy to yield.

Mr. PROXMIRE. Yes.

Mr. HANSEN. I will say this. Despite any other considerations, before this winter is over, it is going to be my prediction that, if jobs are able to be filled, there are warm homes, schools are able to operate because heat is available, this will be the overriding issue, and we are going to look silly if we think that we can correct a bad situation by compounding it and making it worse.

I will say, with due respect to the Banking Committee and the Interior Committee, if we keep sticking our noses in there, trying to dictate decrees that run counter to the law of supply and demand, we will indeed make a bad situation. I hope we will not do that which is not in the public interest. It is the public interest to see that there are jobs, that we keep America going, that we have essential tasks to do. Without energy, without oil and gas, we can do none of those things.

I would hope that we would recognize the facts of life and adopt the Buckley amendment, so that we can go on with the job of finding oil and gas in this country, so that we find it this fall, so that we can take a new direction and a new course and do what we all agree we want to do.

Mr. PROXMIRE. But of all the times to deprive the administration of the enormous discretion it has in the price control bill—they can abandon it at any time; they can modify it in any way—I would not think it would be at a time when we have a 15- to 25-percent shortage of oil, when we have the economy going more strongly than it has been going for a long time, when unemployment is so low and when we have high interest rates, without a record, with an unprinted amendment. That does not seem to be responsible.

Mr. HANSEN. We can leave it on with a 15- to 25-percent shortage or we can leave it on for the shortage to get to a greater magnitude.

Mr. PROXMIRE. We have to have controls when we get to the shortage we have now.

Mr. HANSEN. I am not arguing the point. I have supported with reluctance the draft of the bill trying to make a bad situation better, but our first concern must address itself to supplies. So far we have not done that. I think the Buckley amendment will be a step forward in doing something about the supply. It is high time to do it. We can, of course, stay here until the lights go out and then hold hearings, or until we have more free time, if jobs are not available. I have no doubt then that the administration witnesses from the Cost of Living Council will not want to speak very loudly.

I thank my colleague.

Mr. PROXMIRE. Mr. President, I thank the Senator from New York very much.

Mr. BUCKLEY. Mr. President, I thank the Senator from Wisconsin for bringing out additional arguments in support of this amendment. I appreciate his concern that there have been no hearings on the proposal. However, it seems to me that in this body we are in the habit of voting on unprinted amendments that have less consequence than this one.

There are a number of truly important features in this legislation as to which there have been no hearings. For example, we instruct the President and State and local governments to develop plans which will have the practical capability to reduce energy consumption. I submit that there are communities and industries across this country that depend 100 percent upon recreational uses.

It is proposed in this legislation that the President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems, and Federal subsidies for reduced fares and additional expenses incurred because of increased service, for the duration of the energy emergency.

I confess that no example was given of the alternative where prices would reach the normal market level, thereby creating incentives without a system of subsidy that we will never get away from.

Mr. PROXMIRE. Mr. President, if the Senator will yield, the Senator is discussing what is already in the bill.

Mr. BUCKLEY. The Senator is correct.

Mr. PROXMIRE. That was considered by the members of the committee. It was debated. It has been before the Senate for a couple of days. We have had the chance to consider amendments.

The Senator from New York came in this afternoon with an amendment that no one had seen before. It would wipe out the most far-reaching control system we have had for a number of years.

Mr. BUCKLEY. Mr. President, I know that a number of Senators want to leave soon and have other commitments. However, I would like to make one comment.

This legislation has been through the committee process. It is known to the dozen or so members of the committee.

I would suggest that the merits or demerits of wage and price control are far better known to every Member of this body by virtue of our historical experience and by virtue of the shortages in our economy

than the impact of mass transit subsidies. Those experiences will enter into a determination of whether my amendment is sound or unsound.

Mr. JOHNSTON. Mr. President, if the Senator from New York will yield, as chance would have it, when the amendment was offered I was in the anteroom having a conversation with Dr. Dunlop. Dr. Dunlop was inquiring of me as to when we might have hearings, how long they would extend, and to what extent we would extend the Wage and Price Control and the Economic Stabilization Act.

Dr. Dunlop believes, as he told me this afternoon, that we ought to phase out the control procedures. However, he told me of his tremendous concern that this energy crisis brings in concerning a new dimension in the area of shortages. It is a matter for which we have absolutely no precedent in our economic history. There is no way to determine what the effect of the energy shortages are going to be.

It is therefore not only desirable but actually essential that we maintain our standby control authority contained in the Economic Stabilization Act of 1970.

Mr. BROCK. Mr. President, if the Senator will yield, does the Senator know how long we have been hearing this talk about stopping controls and doing it industry by industry? We have not seen one iota of movement.

The Senator from Louisiana represents a fine State, a very good oil-producing State. It is a major contributor to the solution of our energy problems.

Today we cannot buy used casings. Why can we not do so? It is because they are being exported. Why are they being exported? They are being exported because we do not allow our American businessmen to compete in the marketplace. We say to them, "You shall not do this." They are sold overseas. We are absolutely prohibiting the ability of the American free enterprise system to compete.

The same thing is happening in the synthetic fibers industry. The materials are being exported. We are not allowing anyone to compete.

I really understand what the Senator is saying. However, I do not believe it any more. I have heard it too often. I think that it is time that the Senate faces up to its responsibility with respect to this problem. Let us get back into the marketplace.

Mr. JOHNSTON. The Senator from Tennessee makes a good point. However, we went from phase II to phase III which was a rapid decontrol. Prices rose so rapidly that Senators and all the people around the country pointed out that phase III was a total failure and that the timing was absolutely wrong.

Whatever may be the merits of the Economic Stabilization Act of 1970, whether advertently or inadvertently, we have it now. And we are not starting off from zero. We have it now. We are not starting from a point of no control. We have it now, and superimposed on that we have the worst energy crisis that the Nation has ever known, for which there is no precedent in our economic history.

For that reason I feel very strongly that we must have this standby authority to cope with shortages, such as aluminum where we have shortages caused by the lack of electricity to manufacture it. We have shortages in steel, in the petrochemical industry, and in every industry.

Mr. BROCK. Is there something absolutely unique about 1973 that everything in our economy coincidentally goes wrong in 1 year? Let me ask the Senator how it has managed to do so thoroughly throughout our economy. Is it so strange to find the shortages we are experiencing after all of these years of affluence and excess production? We walk into a situation in this country where we have not enough shirts, steel, casings, petroleum. We have shortages in a broad range of areas. I wonder if we should not take an honest look at the way the shortages came about in 1973 after 3 years of price control which inhibited the right of American business to produce. If we have shortages, is that not the best argument to let the marketplace start producing again?

Mr. JOHNSTON. Mr. President, I will resist the temptation to point out that other things also coincide with these shortages.

Mr. BROCK. Mr. President, I have already made that point. I understand it.

Mr. JOHNSTON. Mr. President, the point that the Senator from Wisconsin made so well is that we need to have hearings on the bill. I told Dr. Dunlop we would have these hearings hopefully in December so that we can look at the whole field of wage and price control and enter the transition period in an orderly manner and not do it in an emergency bill that must be passed within the next few hours. Every day that goes by we notice that the situation gets worse, particularly in the Northeast.

I believe that this amendment should be considered in committee and that it has no place in this bill. I therefore move to table and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. Eagleton), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Illinois (Mr. Percy), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is detained on official business.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Illinois (Mr. Percy) would each vote "yea."

The result was announced—yeas 60, nays 26, as follows.

[No. 487 Leg.]

YEAS—60

Abourezk	Ervin	Montoya
Aiken	Fong	Moss
Allen	Gravel	Muskie
Bayh	Hart	Nunn
Beall	Haskell	Pastore
Bellmon	Hathaway	Pearson
Bennett	Hollings	Pell
Bentsen	Hruska	Proxmire
Bible	Hughes	Randolph
Biden	Jackson	Ribicoff
Brooke	Javits	Roth
Burdick	Johnston	Schweiker
Byrd, Robert C.	Long	Scott, Hugh
Cannon	Magnuson	Stafford
Case	Mansfield	Stevens
Chiles	McClellan	Stevenson
Church	McGee	Symington
Clark	McGovern	Tunney
Cranston	McIntyre	Williams
Eastland	Mondale	Young

NAYS—26

Bartlett	Fulbright	McClure
Brock	Goldwater	Metcalf
Buckley	Griffin	Packwood
Byrd, Harry F., Jr.	Gurney	Scott, William L.
Cook	Hansen	Taft
Dole	Hartke	Thurmond
Domenici	Hatfield	Tower
Dominick	Helms	Weicker
Fannin	Mathias	

NOT VOTING—14

Baker	Humphrey	Saxbe
Cotton	Inouye	Sparkman
Curtis	Kennedy	Stennis
Eagleton	Nelson	Talmadge
Huddleston	Percy	

So the motion to lay on the table was agreed to.

Mr. MCINTYRE. I yield a half minute to the Senator from New Jersey.

Mr. CASE. Mr. President, I wish to propound an inquiry to the acting floor manager of the bill in regard to an interpretation of the provisions of **section 202(b)**. In **section 202(b)** is a provision that during the energy emergency the President may enter into appropriate understandings, agreements, or understandings with foreign nationals or organizations.

Mr. ROBERT C. BYRD. Mr. President, I beg the Senator's pardon for interrupting him.

Will the Chair enforce the rule of the Senate and get order?

The PRESIDING OFFICER. (Mr. Montoya). The Senate will be in order. Only one Senator has the floor—the Senator from New Jersey. He is entitled to be heard.

The Senator may proceed.

Mr. CASE. I thank the Chair and I thank the assistant majority leader for their courtesy. This proviso in the bill "shall be submitted to the Senate of the United States, and shall be operative, but shall not become final until the Senate has 15 days," and so forth, to consider it.

I understand the question has been addressed informally to the Parliamentarian already, and he has said, as a matter of first impression, that agreements and similar understandings would come before the Committee on Foreign Relations of the Senate.

I have discussed that statement with the chairman of the subcommittee, and he has told me, informally, that that is his view. I ask now as a matter of legislative record, whether the acting floor manager of the bill will confirm this statement?

Mr. JOHNSTON. The answer, to the distinguished Senator from New Jersey, is that this provision will be considered by the Committee on Foreign Relations.

Mr. CASE. I thank the Senator.

Mr. MONDALE. Mr. President, will the Senator yield briefly?

Mr. McINTYRE. I yield to the Senator from Minnesota.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Minnesota yield briefly to me?

Mr. MONDALE. I yield.

Mr. ROBERT C. BYRD. Mr. President, is the amendment offered by the distinguished Senator from New Hampshire (Mr. McIntyre) pending?

The PRESIDING OFFICER. It has not been placed before the Senate.

Mr. McINTYRE. Mr. President, I call up my amendment No. 652.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

(f) Notwithstanding any other provision of law, require the immediate termination of the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product whose export is having an adverse impact on domestic supplies.

Mr. McINTYRE. Mr. President, the amendment that I am offering is short and simply stated, that is, notwithstanding any other provision of law the President would have clear authority to require the termination of any petroleum product export which is having an adverse impact on domestic supplies.

This language amends section 207 of the bill to give the President the authority to take this action. It should be noted that the amendment is phrased so that it is not mandatory in form.

Mr. President, several newspapers this summer first carried stories showing that sizable quantities of refined petroleum products and particularly home heating oil were being exported overseas. More recently, the Cost of Living Council has issued a report predicting that 53.5 million gallons of heating fuel oil will be exported from the United States during 1973. This represents a 284-percent increase in fuel oil exports over last year. This situation is intolerable and is grossly unfair to the heating oil consumers of this country who are being called upon to conserve this product because of its short supply.

The purpose in offering this amendment is to give the President clear authority over the next year to terminate those exports of petroleum products adversely affecting domestic supplies. The basic legislation governing the control of exports, the Export Administration Act, can

be extremely cumbersome and delay considerably the implementation of export controls even after a clear showing of need has been made.

Because of the difficulty in effectively controlling exports under this act, the President earlier this year sent legislation to Congress revising the standards under the act to make it more easily useable. Of course, the Export Administration Act concerns itself with all commodities being shipped overseas. The act that the Senate is addressing itself to today, the National Emergency Energy Act of 1973, concerns itself primarily with fossil fuels.

The very nature of this emergency act calls for the inclusion in it of clear authority to the President to be able to immediately suspend the export of any petroleum product adversely affecting our supplies.

Make no mistake about it. The shortages that we will be experiencing in the next few months will be unlike those ever witnessed before during peace-time in this country. With substantial price increases in various petroleum products and the difficulty the consumer will have in obtaining adequate supplies, there can be no rational basis for allowing 1 gallon of heating oil to be exported if some citizen is thereby deprived.

As I said earlier, Mr. President, the realization that certain oil companies were exporting domestically refined oil products prompted me in September of this year to introduce S. 2442 which, in effect, prohibited the export of crude oil or petroleum products during any period when the petroleum industry was subject to economic controls under the authority granted under the Economic Stabilization Act of 1970.

While the amendment I am offering today does not prohibit exports of finished petroleum products, it does give the President the clear authority to do so to protect our own domestic supply. With the action taken several weeks ago by the Organization of Arab Petroleum Countries—OAPEC—it is clear that our domestic supply situation would deteriorate even further than was anticipated in the early fall. Recognizing the fact that the OAPEC has not only placed an embargo on all crude oil shipments to the United States, but has also implemented a policy cutting off supplies to any country supplying us with refined petroleum products, I have purposely drafted the amendment to give the President substantial leeway in placing export restrictions on finished petroleum products.

In our present international situation, circumstances may call upon us to come to the aid of some of our friends who are retaliated against by the Arabs because of their support.

The purpose of this amendment is not to place any restrictions on the President, but is just the contrary.

This amendment will give the President maximum flexibility in dealing with the export of finished petroleum products.

I would also like to touch briefly on one other point. The conference report recently adopted on the trans-Alaskan pipeline bill contained a section placing certain limitations on the export of crude oil. As I am sure the floor manager of the bill presently before us, Senator Jackson, recalls, I, along with several of my colleagues were concerned with the export of domestically produced crude oil.

Senator Jackson recognized this concern and included in the pipeline bill a provision requiring a Presidential finding that any exports would not diminish the total quality or quantity of petroleum available

in the United States, and I compliment the Senator from Washington for including that provision in the pipeline bill.

The amendment that I am presently offering does not deal with crude oil; it deals with finished petroleum products and enumerates specifically gasoline, No. 2 fuel oil, and residual oil as these are the petroleum products that are presently in short supply. The amendment does, however, include any other petroleum product also having an adverse impact on domestic supplies.

Mr. President, I should also point out for the benefit of the Senate that the Emergency Petroleum Allocation Act of 1973, S. 1570, also touches on the point but does not directly address itself to exports. Section 4(d) provides that all crude oil, residual fuel oil, and refined petroleum products shall be totally allocated for use by consumers within the United States to the extent practicable and necessary. It does not, however, address itself to exports. While that subsection may be inferred to deal with the question of exports. I believe that the President should have that clear authority.

As I stated earlier, the basic authority the President has in the Export Administration Act. However, the basic purpose of that act when passed by Congress was to deal with commodity shortages caused by foreign demand. In fact, the act talks in terms of protecting the domestic economy from an excessive drain of scarce materials and the inflationary impact of abnormal foreign demand. Our present energy situation is much different.

The oil shortage is not being caused by excessive foreign demand; just the opposite is the case here. The shortages are being caused primarily by an insufficient domestic refining capability and by the inability to secure sufficient quantities of foreign crude oil and refined petroleum products. This is a different type of shortage and must be handled differently.

I think it is extremely important that the Congress include such an amendment in any energy emergency legislation, and simple facts arrive at this conclusion.

This country is presently consuming approximately 17 million barrels a day of various petroleum products while at the same time our domestic refining capacity can only provide us with around 12.5 million barrels a day of finished petroleum products. It simply escapes reason in our present situation to allow the export of any of these petroleum products if such export means that American citizens must do without.

Mr. President, I feel that there is one other important point that should be made with regard to petroleum product exports. The Department of the Interior on November 9 issued a press release entitled "Distillate Exports Minute, Office of Oil and Gas Reports." The press release quotes the Director of the Office of Oil and Gas that the export of distillate is "a drop in the proverbial bucket" and the release goes on to state that between January 1 and September 30 of this year 14½ million barrels of distillate were exported. The Department of the Interior's own figures clearly show that the Cost of Living Council's study is considerably lower than actual export levels. If exports of distillate, which is home heating oil, continue for the remainder of this year at a level equal to the first 9 months, this will mean that we have exported over 2 million barrels of that product in 1973.

This figure might, in the Department of the Interior's opinion, be a "drop in the proverbial bucket" but this drop represents close to 25 percent, or one-fourth, of the total demand for this product in the State of New Hampshire, and it this same product that heats over 80 percent of the homes in my State. Quite frankly, what seems like a small quantity when looking at the whole picture will seem like an enormous amount to the citizens of this country when they run out, and I think it is the duty of Congress to assure the American people that we will not tolerate a situation in which our homes are going cold, our schools are closed, and our people out of work because the fuel that is so essential to them has been sold overseas.

Mr. FANNIN. Mr. President, I realize the sincerity of the distinguished Senator, but I think what was said by the distinguished Senator, from North Carolina applies to what he is saying. The Senator from North Carolina said:

Forgive us, O Lord, for we know not what we do.

I feel sure the Senator does not know the consequences of what we would be doing if we were to pass this amendment.

It would be interpreted by Canada and Mexico as hostile and a cutting off of U.S. supplies rather than assisting in giving additional supplies.

I call to the attention of the Senator what Canada exports to the United States. Canada exports to the United States 1.168 million barrels a day of distillates and 7,400 barrels a day of residual oil. That comes here each day from Canada. Then, there are 95,300 barrels a day of gasoline jet fuel and kerosene and 17,900 barrels a day of naphtha, feed stocks.

I will furnish additional figures for the Record with respect to the detrimental effect of what happens. I will provide additional information so it will be available in the morning.

We would be considering taking action when we have not considered the consequences.

"Rumors that the United States is exporting large quantities of fuel oil are unfounded," according to Mr. Ligone. We have exported .2 of 1 percent of U.S. total demand.

We would starve these countries like Mexico, and specifically Mexico, where they depend on fuel to heat their hospitals, to warm their schools, to take care of the children, to heat their homes. They have been doing this for years and years. We would rob them of that opportunity.

I would go along with the Senator if he cut to the same percentage we would cut, but when the Senator says we are going to take away the means to cook their meals, that is something else. The United States is a great country because it is a good country. I do not think we would want to take action now as the Senator proposes here.

Let us look at what the retaliation would be. If we cut off Mexico, what would Venezuela do to us? They are a South American country. Mexico and Venezuela are closely associated. It would be a great mistake to alienate our allies.

It would interfere with the Middle East negotiations being conducted by Dr. Kissinger at this time.

It was received in the committee, and after long deliberation and consideration, it was rejected.

I think this is something that is just as wrong as wrong can be. I have read the amendment thoroughly. It is not long. It states that—

Notwithstanding any other provision of law, require the immediate termination of the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product whose export is having an adverse impact on domestic supplies.

Is that not a fine way to treat our neighbor? Is that not a fine way to conduct our relationships with other countries? I do not understand how we can be crueller or more—

Mr. LONG. One of the countries that would lose our exports is Venezuela. That is where we expect to get most of our offshore oil during this period—Venezuela and, hopefully, Nigeria. Take the 100,000 barrels to Nigeria or Venezuela. How much is she shipping to us? Probably 100 times that much.

Mr. FANNIN. They are exactly the kinds of facts I wanted to get. The Senator from Louisiana is so right. This is cutting off our nose to spite our face. The transshipments from European countries are tremendous. The shipments from The Netherlands are astounding.

I just cannot understand how we could even risk the publicity that would go forth here by the selfish act such as would be instituted if this amendment were passed in the Senate. I think it is really devastating even that we consider it.

I think the distinguished Senator from Louisiana, because here we are talking about a very, very small percentage, but if the Senator from New Hampshire could just make a trip down into some of these countries and realize the dependency they have on this fuel—and I have been there many times, so I know what I am talking about—he would know exactly what is happening. I realize the consequences of cutting off their supplies overnight. It would just be catastrophic. The people would be going to their presidents and to their public officials. The President of Mexico would be up in arms. He would be on the hot phone to the President of the United States.

I do not think the Senator from New Hampshire realizes the consequences of this amendment. I would hope he would withdraw it.

Mr. MCINTYRE. Mr. President, it has always amazed me how my distinguished friend from the Southwest is astounded by some of the amendments that we in the consuming States offer.

It will be noticed that the amendment I have offered here is drawn so that the President has the discretionary authority to allow these exports to occur, just so long as the domestic supplies are not adversely affected.

If the President sees it the way the Senator from Arizona does, I suspect we will get no imposition, because he will see it is much more important that we take care of those Mexican friends of ours—and certainly they are our friends—than it is to make sure that New Hampshire and Minnesota—

Mr. FANNIN. The Senator knows I did not say that. I said share and share alike.

Let us make one thing clear. Arizona does not produce petroleum products, unfortunately. On the Navaho Indian reservations, we have a few wells that New Mexico was kind enough to let flow a little underneath the border. It is a very little amount. We are not what we call

an oil-producing State. We produce over 50 percent of the copper of this country, and we are proud of that, but we are not an oil-producing State. So do not think we are not exactly in the same position that the Senator from New Hampshire is. So do not refer to us as a petroleum-producing State, because we are not. If we were, I would feel exactly the same way.

Mr. McINTYRE. Arizona is not a producing State, but how does the mean temperature there compare with New Hampshire?

Mr. FANNIN. It depends. If one goes into the southern part of Arizona, it is higher. In northern Arizona it is a little colder than New Hampshire.

Mr. McINTYRE. It seems to me the Senator is missing the real heart of the amendment. I think it is important, when we move into a time when shortages are going to abound, that every corner, every leak of domestic oil, be curbed unless there is good reason for it to depart from this country.

The Senator is telling me it is important to preserve our friendship with Mexico—and I agree with him—and that it is important for the Mexicans to get that oil, and if they do not, our friends from Venezuela will be upset.

Mr. FANNIN. Should they not be?

Mr. McINTYRE. We have been a good customer of theirs for some time. I had thought, before talking of it, that if we provided oil along the border of Mexico, in the Rio Grande area, then Mexico, which I believe, although I am not sure, is self-sufficient, could provide an equivalent amount of oil to other areas—

Mr. FANNIN. No.

Mr. McINTYRE. That is not correct?

Mr. FANNIN. No, that is not true. Unfortunately, along the border there is no production, so they could not do so. For 30 years or more we have been shipping petroleum products into that country. I know it has been for that period of time, and it is probably longer than that. They have become dependent on us, not only towns, but states, in fact all the way down to Mexico City. So we are talking about something that is very, very serious to the American people. In fact, as far as heating is concerned, in many areas of Mexico, they are dependent on us.

Mr. McINTYRE. I would like, if I may, to express again the viewpoint of the Senator from New Hampshire on this question. I would point out to the distinguished Senator from Arizona and to others here on the floor that while the Interior Committee referred to these 2 million barrels of heating oil which are exported as a drop in the bucket, it represents about 25 percent of the heating oil supply that would be consumed and used by the residents of New Hampshire. So, as I said in my opening statement, it is not a drop in the bucket to us.

We are not saying that these 2 million barrels cannot be exported if this amendment is adopted. We say you ought to take another hard look at it before you export any of it.

Mr. FANNIN. May I read back to the Senator from his amendment?

Notwithstanding any other provision of law, require the immediate termination of the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product whose export is having an adverse impact on domestic supplies.

Any export of petroleum product, it could be said, has an adverse effect, but let us look at it from the standpoint of the 1 billion barrels of oil we will be importing from abroad over the years.

So we are not talking about fair play and we are not talking about quid pro quo. We are talking about the selfish, coldblooded act of saying, "We will cut you off, but you keep supplying us." That is what the Senator is talking about when he talks about Venezuela reshipping oil from the Mideast or furnishing us with tremendous amounts of oil. In fact, we are very dependent on Venezuela. If Venezuela cut us off as a result of this action, New Hampshire will probably suffer many times what it would as a result of the export of this miniscule amount of oil being sent into Mexico.

Mr. McINTYRE. I would like to point out to the good Senator that my amendment, if adopted, must be read in conjunction with what is contained in **section 207**. It would come at the end of the section. So if the Senator will go to page 24, **section 207** starts out by saying:

The President is authorized to initiate the following measures to supplement domestic energy supplies for the duration of the emergency.

Then my amendment would go in. So it does not seem to be so coldblooded.

Mr. FANNIN. It is coldblooded. I think I can understand the English language. It says "require," even when we take it in context with the other provisions.

I would suggest the Senator permit us to get the figures for him, so he would realize just how devastating this amendment would be. We can have in the morning figures as to the amount of the product we receive from the different countries referred to in this bulletin.

I think it is very important to realize that we should not take an action that is going to result in these other countries reacting. It certainly could be disastrous to us.

Mr. COTTON. Mr. President, if the domestic supply of oil, heating oil, is reduced by, say, 15 percent because of scarcity, or 20 percent or 10 percent, is it not fair and proper, and could anyone complain if we were to reduce our export oil by exactly the same percentage so that our Mexican friends would be asked to bear the same hardship that we do?

Mr. FANNIN. Yes. I said a quid pro quo. However, we must consider that we cannot possibly think of cutting off exports to countries that we are dependent upon for imports. I cannot see how this amendment would be beneficial when we have had favorable balances of trade with Mexico for years and years.

We have to look at this from the standpoint of equity and fairness. We could cut off Mexico and probably gain a little as far as Mexico alone is concerned. However, we would suffer the consequences.

Mr. COTTON. The Senator did not quite answer my question.

Mr. FANNIN. I understand. The Senator is saying that if we are cut back 20 percent, we should do the same thing with respect to them. I would point out that if we cut them 20 percent, we might get cut 50 percent by Venezuela. If we treat Mexico in that fashion, they will perhaps cut us by 50 percent.

I do not see how we could gain by an amendment of this nature. We are too dependent upon the other countries of the world. We

import approximately 35 percent of our petroleum needs. Are we not being very narrow if we say that we will cut our exports by 35 percent?

Mr. COTTON. If we get a certain percentage of oil from Venezuela, Venezuela could still take care of Mexico's needs.

Mr. FANNIN. Mr. President, they happen not to be in a position to take care of Mexico's needs in the product we are talking about, propane and similar products that require refining.

Mr. COTTON. We have to refine it.

Mr. FANNIN. We get it in different ways. Some of it is refined. Some of it is from the natural gas wells. It is a trade-off. We are the beneficiary. We get 5 percent of our total supplies from Canada. Are we acting intelligently if we pass an amendment that could raise havoc and show how selfish we are in cutting off the small country of Mexico? We would have them retaliate. Mexico would not retaliate per se, but other countries would retaliate. Venezuela is very friendly with Mexico. Mexico is one of the top leaders in Latin American affairs. It would be very detrimental for us to think that we could gain by selecting Mexico and saying that we will cut Mexico by a certain percentage.

If we had a system that was fair and equitable and would mean that we would not have retaliation, it would be different. However, I am concerned about retaliation. I am very much concerned.

Mr. COTTON. Will the Senator explain to me why the oil products that go to Mexico have to come via the United States?

Mr. FANNIN. Let me explain. They are not necessarily coming via the United States. We have tried to build up a market in Mexico for many years. If we want to go back into history, we would see a little unfavorable relationship at the time of the expropriations. However, in the last 30 years we have had very favorable relations with Mexico. We have been selling them surplus products. It assisted us greatly. Now we have a chance to tell them that they did not need to get the product from us but could have gotten it from someone else and we are not going to let them have it. However, we have had very favorable balances of trade with Mexico. Would that be a way in which we should treat a country like Mexico?

Mr. COTTON. Mr. President, I was not suggesting that. I was suggesting that if our supply was reduced.

Mr. FANNIN. Are we willing to tell Venezuela that because they cut us back, say, 10 percent on what they shipped us, that we would cut back 10 percent on what we ship to Mexico? Would that not be foolish?

Mr. COTTON. Why not?

Mr. FANNIN. We would be the ones to suffer many times over. That is the reason that I want figures on what we get from Venezuela so that I can illustrate the sacrifice we are making foolishly and selfishly.

Mr. COTTON. Mr. President, a moment ago the Senator was talking about our imports that Mexico sends to us of other products.

Mr. FANNIN. The Senator is correct.

Mr. COTTON. If we are to face a situation in the northern part of our country where our people will be suffering under hardships and suffering from cold, it is hard for me to understand why it is so unreasonable and why it would antagonize Mexico or anyone else if we do this proportionately.

Mr. FANNIN. That is why I wanted time to see what should be done so that we would not lose by our action.

It might be possible to do this. However, I would want to know what we would gain or lose. If we cut back Mexico 10 percent and the other countries cut us back 10 percent, we would lose 100 times over, or 50 times over.

Mr. COTTON. Presumably we are being cut back by the countries of the Near East. We pay Venezuela for every penny's worth of oil we get.

Mr. FANNIN. The Senator is correct. We are their customers. However, they have many places in which they can sell their products. We want to remain their customer. We do not want to get them mad at us for some other action that we take against another country.

If the Senator would agree, since it is now 10 minutes to 5 and I did not know that the Senator was going to discuss this matter tonight, I would like to have an opportunity to properly present information that I think is valuable in the consideration of this subject.

Mr. McINTYRE. Mr. President, we have previously agreed that a vote would occur tomorrow. We have gone a little overtime.

Mr. FANNIN. Mr. President, I want to correct the Senator on that. We did not agree that we would vote on it tomorrow. We agreed that the vote would occur later.

Mr. McINTYRE. Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I am greatly concerned about potential infringements of first amendment rights of free speech and press threatened by the language in **section 203(b)(2)** which bans all advertising encouraging increased energy consumption. The language to which I refer is on page 17 at lines 13 and 14.

This is a sweeping prohibition and coupled with the criminal penalties provided in the bill may violate the Constitution, in my opinion.

I am aware that advertisements fall into the so-called "commercial speech" category and, therefore, do not necessarily enjoy the same constitutional protections that a policy speech enjoys. Limitations on advertising have been upheld by the courts but all of the cases suggest that broad, vague and sweeping prohibitions accompanied by criminal penalties would amount to a prior restraint on publications.

According to the committee report, the purpose of S. 2589 is to provide authority, impetus, and direction to the administration in devising a program to deal effectively with the energy emergency we now face. I therefore direct some specific questions to the distinguished chairman regarding the types of advertising which the committee intends would be banned by this provision.

I have discussed those questions with the Senator from Washington and together we have developed a colloquy to provide further clarification about the scope and intent of this provision.

First, I would like to ask the chairman to express his understanding of the committee's intent—specifically, what type or types of advertising does the committee seek to direct the administration to prohibit?

Mr. JACKSON. Mr. President, I thank the Senator from California for raising this important issue and for giving me an opportunity to explain the committee's intended meaning of the phrase to which he refers.

I agree with the Senator that it is important to be specific. At the same time, it is important to remember that we are indeed faced with

a serious emergency and are attempting in S. 2589 to provide the President with the authority needed to issue more precisely drawn programs, accompanied by carefully and narrowly drawn regulations and guidelines, aimed at curtailing wasteful and nonessential uses of fuel and energy. The committee intends that the burdens of curtailing energy use be equitably distributed among all sectors of the economy and the population. This means that plans called for in S. 2589 must embody as many possible remedies for our energy and fuel shortage as possible.

A factor in the development of this emergency has been advertisements promoting wasteful and nonessential energy consumption. **[Sec. 203(b)(2).]** The committee has heard testimony and received direct evidence that some utilities and other energy producers have in the recent past engaged in widespread advertising designed for no other purpose than to increase consumption of energy and fuel. This is the type of advertising the committee thinks should cease.

I might add—in fact I am pleased to observe—that many public utilities and other energy producers no longer engage in such advertising. Many are now performing a valuable public service by explaining energy-conserving techniques in paid advertisements.

But other types of advertising promoting consumption of energy on a wasteful scale remain. When we are asking people to use only limited amounts of gasoline and to live in homes not as well heated as last winter, I believe it is only fair that we ban advertising which flagrantly runs counter to everything we must do to meet the present emergency and which would present a clear and present danger to our limited fuel and energy supplies.

Since I believe this provision is essential to the overall balance we seek to attain in this legislation, I welcome this opportunity to clarify committee intent.

Mr. CRANSTON. Does the provision prohibit the expression of opinion in paid political advertisements opposing the purposes of the Emergency Energy Act and related policies?

Mr. JACKSON. Such an interpretation clearly would violate the first amendment. Free speech and free debate over important public policy is what America is all about. No energy crisis—no crisis of any other kind that I can conceive of—would justify such a direct abridgment of the freedoms of speech and press.

Mr. CRANSTON. I would like to ask another question along this line. Would this ban authorize regulations which prohibit or limit advertising in which a utility would tell consumers that it is OK to have lights on Christmas trees this year because a string of 50 lights would burn only the same amount of energy as a 100-watt electric light bulb?

Mr. JACKSON. The ban would not authorize regulations which limit in any way factual statements made by an advertiser stating the amount of energy consumed by products or appliances. This type of educational information is useful to people in making judgments about purchases or uses of appliances and products.

Mr. CRANSTON. Would this provision empower the President to issue regulations prohibiting the advertising of items and goods for sale which require the consumption of energy in their manufacture?

Mr. JACKSON. Manufacturing consumes large amounts of energy.

However, in our opinion the proper method to deal with this is through first, a program of priority fuel allocation, and second, a program of rationing and strict energy conservation measures.

S. 2589 authorizes the latter to be exercised by the President. We do not contemplate a "ban" on the advertising of manufactured items even though the manufacture of such items in and of itself may consume substantial quantities of energy. I would hope that this distinction is clear. We are concerned here with advertising which promotes consumption of energy and fuel on a wasteful scale by the consumer; not with advertising of items which require large amounts of energy and fuel to manufacture. As I said earlier, the bill provides ample authority for the President to reduce wasteful expenditures of energy and fuel in manufacturing processes. The ban on advertising is not intended to reach that problem.

We must recognize that many products which are manufactured require substantial energy inputs. Some of these are essential products to maintaining the basic health of the economy, national security, vital public services, and our energy producing industries. The committee is in agreement on a rule of commonsense and reasonableness in the construction of this language.

Mr. CRANSTON. When advertisements appear, at least two parties bear some responsibility for it: the media and the advertiser. As you know, the Supreme Court recently upheld regulations of the Equal Employment Opportunity Commission requiring newspapers to stop printing help wanted ads under separate columns specifying male or female. Does this provision impose sanctions in any way upon the media which prints or carries an advertisement deemed in violation of the intent of this provision?

Mr. JACKSON. We intend that the ban be directed to the advertiser, the person who paid for the advertisement, not the newspaper or television station carrying the advertisement. I do want to make it clear that this provision is not directed at the media. It is aimed solely at prohibiting advertising which irresponsibly promotes and encourages increased consumption of energy. **[Sec. 203(b)(2).]**

Mr. CRANSTON. I have a copy of an advertisement here, which I have shown the distinguished chairman, promoting the sale of electric shavers. Would this advertisement fall within the type of prohibitions the committee seeks to have imposed through the authorization to ban all advertising encouraging increased energy consumption?

Mr. JACKSON. No, it does not. This advertisement is not directed toward an effort to create in the consumer a desire to waste energy. It is a legitimate sales effort by a merchant to move inventory. Again, I feel that this advertisement comes within the right of the merchant to communicate in a responsible way with his customers and potential customers. I seen nothing in this advertisement to incite wasteful consumption of energy.

Mr. CRANSTON. I think the Senator shares my concern that the ban on advertising not be administered in a way to limit the economic freedom of a business person to conduct his business at a profit rather than at a loss. We are approaching a time of the business year when the majority of rental businesses in the country make a profit or merely break-even or possibly suffer a loss. Advertising plays a large part in helping a merchant move inventory. I hope that nothing in this

broad grant of authority to the Executive is intended to authorize restrictions on merchantile advertisting.

Mr. JACKSON. I would agree generally with the sentiments of the Senator.

But we do not know all of the contingencies which we face. It may be that advertising of individual products which consume inordinately wasteful amounts of energy and fuel must be limited. I would be misleading the Senator if I did not make that possibility clear to him.

It may be that promotional advertising of such products on a massive scale may present such a clear danger to the overall fuel and energy situation and to the integrity and balance of the plan that such advertising campaigns should be banned.

I would hope that bans on advertising generally will permit the business person freedom to operate without undue interference with his right to communicate to his clientele and potential customers.

Mr. TUNNEY. Mr. President, the American people always have been able to pull together in times of crisis, and this dismal winter of an unprecedented fuel shortage will be no exception. Americans will, I am confident, face the shortage with their usual solidarity. They will drive less and more slowly. They will take public transit where possible and pool their cars. They will turn out lights and turn down thermostats. And, while not liking it one bit, they will comply with the regulations and the rationing authorized under the Emergency Energy Act.

The act grants sweeping powers that will affect our lives in ways our Government never has except during the Civil War of a century ago or of the world wars in our century. The act, necessarily, will put the broad boot of bureaucracy into our neighborhoods, our shopping areas, and our places of work.

All of us today, I imagine, regret that we have no alternative but to vote for such legislation as an unavoided imperative. Because, most immediately, of the cutoff of Middle East oil and because of the lack of administrative initiatives earlier at less critical times, we must now accord enormous new powers to the Presidency.

The Presidency, as an institution, already possesses disproportionate power that accutely tips the balance of powers institutionalized in our Constitution. I direct these remarks not at the man now in the White House, but rather at the concentric gathering or more and more power in the hands of one person, no matter his party or the status of his public credibility.

Nonetheless, I believe Senator Jackson and the other authors of the Energy Act tried to impose some checks on unrestrained power and wisely tried to localize day-to-day decisions on allocations and implementation.

Inasmuch as this is temporary legislation to meet an immediate crisis, it overlooks customary appellate processes and other lengthy proceeding that might delay needed action. But, as a counterbalance, it provides for local administration so that public pressure will remain intense and direct on those whose decisions will so crucially affect our daily routine [Sec. 302.] Thus, it strives to let the winds of freedom into the decisionmaking where it can be most keenly felt—namely, in our hometowns with persons whom we know well and can speak to first-hand.

Despite the fine efforts of Senator Jackson and his colleagues, many ambiguities may arise from this emergency legislation. Among them, whether rationing, with the coupons and the little window stickers of World War II, or sharply increased taxes on fuels will be used to curtail demand? Whether independent producers will be protected? Already, 3,000 have gone out of business. Whether power-plants in California will be forced to use coal, which would have to be shipped into the State and the smoke from which could further befoul our atmosphere?

Beyond these questions, is a larger one about the vigor and health of our democracy in times of such crisis. By temporarily allowing Big Brother Government to intrude more forcefully into our lives, do we permanently surrender some further measure of our freedoms and our liberties?

I don't believe this necessarily has to be so. Clearly, there are great risks involved, for power usually generates pressures for more power.

The only assurance that it won't be so is the vigilance and determination of the American people themselves. With regulation and rationing and all of the other governmental impositions, they still will retain the ultimate authority—their votes.

But all this will necessitate new burdens, certainly for those of us in Congress, who, in many ways, must become, as seldom before in our history, guardians over the administration of a major grant of power to a President.

It will be our responsibility to maintain a close and constant oversight into the application of the emergency act with its many implications for our economy for the environment and for the future welfare of our country.

In the face of fuel shortage, the American People, I am sure, will accept needed sacrifice, but they will not bestow—nor should they—blind obedience or trust in this or any administration.

They do not want this or any other emergency act to go one step further than the absolute necessities in meeting a particular crisis.

They will want to see that this act keeps public transit moving, police care on the streets, hospitals warm and well lighted, and food moving from farm to table.

But they will resist—and we, as their representatives—will be their principal instruments—any efforts to broaden this act into an assault on our antitrust, environmental and other laws that protect this country against being ground under the heel of industrial and government giantism.

They do not—nor do we—want this emergency act to become a license for monopoly power.

They do not—nor do we—want a big oil companies to abrogate anti-trust laws to eliminate the independent producers and suppliers.

They do not—nor do we—want the urgent need for fuel to crush efforts to clean our air and save our environment.

They do not—nor do we—want our present needs to panic us to resume drilling in the Santa Barbara channel and other scenic areas.

They do not—nor do we—want the grim urgencies of this legislation to be used to divert national effort from vital programs to educate our children and adequately feed and house all Americans and to protect them from crime, illness, and discrimination.

They do not—nor do we—want the need for conservation to be used surgically by any White House operative to discriminate or retaliate against any legitimate consumer interest.

They—and so do those of us in Congress—want the law to be administered fairly and equitably, with utmost reason and consummate restraint by those to whom these vast powers have been delegated.

The paralytic potential in the current crisis is enormous. Already, California agriculture faces a drastic curtailment in planting for next year because its fuel allocation was based on a period when much of our farm area was flooded. Similarly, mass transit systems in Los Angeles and neighboring counties, in San Diego and Sacramento face sharp reductions in services.

Four major public utilities in the State—Pacific Gas & Electric in northern California, the Los Angeles Department of Water & Power, Southern California Edison, and San Diego Power & Electricity are short some 57 million barrels for next year.

Additionally, three cities expect to run out of fuel soon—Glendale by this December; and Burbank and Pasadena by next February.

Even if the emergency act and the companion fuel allocation bill go into effect in the optimum period possible, it will be at least 60 days before inadequacies under the present voluntary allocation program can be corrected and needed supplies become available to such hard-pressed sectors of our economy as California farmers.

These local problems give direct meaning to the current shortage and, obviously, will have grave implications on food and other prices and on jobs and on the economy generally in the year ahead. And they give driving urgency to the need for our Nation, as some of us have long urged, to seek substitutes to our present dependence on oil and gas. Clearly, we may have to continue that reliance for some years to come, but we should resolve, at long last, to launch a massive national effort to harness and cultivate new sources of energy which abound in the seas, in the atmosphere and underground.

The U.S. Geological Survey has estimated that there are almost 500 billion barrels of oil in potential reserves, and almost 2,400 trillion cubic feet of proven and undiscovered natural gas reserves on- and off-shore in the United States. It is estimated that 50 percent to 80 percent of these resources are under Federal lands.

We have, furthermore, the largest coal reserves of any country in the world. The U.S. Bureau of Mines estimates domestic coal reserves down to more than a mile below ground in excess of 3 trillion tons, sufficient to provide for much of our energy needs for the next 500 years.

In all this, we must think not only of how to assuage the crisis of this winter, but to think in affirmative and imaginative terms for keeping our homes warm, our families fed, and our economy moving in future winters.

In the present situation, all of us recognize, of course, there will be hardship and suffering, disruption and dislocation. But we can weather these conditions if we are but assured that the emergency act is being well and equitably administered.

Herman Melville, in "Moby Dick," talked of the dark November of the soul. This may be another such November in our national history.

We will get through this latest crisis in and avalanche of crises, but only if each of us work together in conserving energy and is on guard together in conserving our Constitution.

THE ENERGY RECORD: CONGRESS AND THE EXECUTIVE BRANCH

Mr. JACKSON. Mr. President, as a result of the President's remarks last week on the performance of Congress in the energy field, I have received a number of inquiries from Senators and others asking for the facts on this subject. I am making this statement today to clarify the record of Congress and the administration on energy issues.

Let me say at the outset that I regret very much the President's remarks on this subject. Not only have those remarks created an erroneous impression, they have also injected an element of partisanship in an area where, at least as far as Congress is concerned, bipartisan cooperation has been the order of the day.

The record is clear that, with the support of Members of both parties, this Congress is in the process of compiling an exceptional record on energy issues.

This is the Congress that gave the President discretionary authority last April to allocate scarce fuels. This is the Congress that has cleared for the President's signature the trans-Alaska pipeline bill and the Emergency Petroleum Allocation Act. And this is the Congress that has taken the initiative, in the National Energy Emergency Act, to direct executive branch action to deal with unprecedented fuel shortages.

Legislative interest in critical energy issues has not developed overnight. Senators may recall that on July 16, 1970, Senator Jennings Randolph introduced legislation cosponsored by Senators of both parties to establish a National Commission on Fuels and Energy. This was to be a joint executive-legislative body to make a comprehensive study of the Nation's energy needs and how best to meet them.

The administration opposed creation of this Commission on the ground that its work would overlap with studies by the Domestic Council—studies that were announced after Senator Randolph's bill was introduced. If such studies were in fact made by the Domestic Council, they have never seen the light of day. But it is significant that the administration was on notice, more than 3 years ago, of deep congressional concern about emerging energy problems.

Because a serious study was obviously needed, Senator Randolph and I sought to authorize a unique cooperative effort in the Senate in early 1971. On February 4, 1971, he introduced Senate Resolution 45, cosponsored by 50 Senators, authorizing the national fuels and energy policy study by the Senate Interior Committee, with participation by the Committees on Commerce and Public Works and the Joint Committee on Atomic Energy. This has not been idle participation either. Under the leadership of Senators Magnuson, Pastore, and Randolph, these committees have played a major role as the study has progressed.

The study authorized by the Senate on May 3, 1971—when Senate Resolution 45 was approved—was broad in scope, involving a comprehensive investigation of the Nation's energy needs and energy resources; of the alternatives available for meeting those needs; and of the effect of Federal laws and policies on the fuels and energy industries. Beginning in late 1971 and continuing into mid-1973, the com-

mittee held extensive hearings on a wide range of issues including deep-water port policy, energy conservation, oil import policy, Federal leasing programs, fuel shortages, and energy research programs. These hearings have laid the groundwork for the legislative program now moving through Congress.

As the energy study progressed, it became increasingly obvious to many of us that the Nation's energy problems were serious, that we were entering a period of dangerous dependency on foreign oil, that alternatives to such dependency were not being exploited and that critical energy issues were not being considered at the highest levels of Government.

My concerns were expressed in a letter to the President in June 1972, in which I asked for a full-scale "indepth study and assessment of national security, foreign policy, and domestic energy policy implications of our growing dependence on imported crude oil and petroleum products from the Middle East and elsewhere." Had that study been undertaken with a sense of urgency and purpose some 17 months ago, we might be better prepared to deal with the international energy problems we face today. Unfortunately, it was not.

On my return from a trip to the Mideast in the fall of 1972, I again warned of the dangers of increasing dependence on Mideast oil. In a speech on December 7, 1972, in Pittsburgh, I set forth some conclusions about this problem which bear repeating:

First, despite official assurances to the contrary, I believe there are major dangers of political instability in the Mid-East. This region's history of political turmoil, internal dissention and abrupt changes in government policy provide a shaky foundation for long-term commercial enterprise, for permanent foreign policy arrangements, and for increased dependence on vital energy supplies.

Second, I believe that the optimism of many government officials and U.S. oil company representatives as to the security of future supplies from this region is unwarranted. The desire of these nations to manage their own resources, and to own and control both production, transport, refining and marketing facilities has, I believe, been greatly underestimated.

Third, even if we assume political stability and rational decision-making on the part of the major oil producing nations—an assumption I consider reasonable after my meeting with leaders in Iran and Saudi Arabia—the sheer magnitude of the revenues to be derived from oil production raises serious questions. Where will revenues not needed for internal development be invested by these countries? Will economic considerations dictate production controls and a shutting-off of supplies even if political or bargaining considerations do not?"

As 1972 progressed, there was increasing doubt about the ability of our existing energy system to meet the country's fuel needs. But the administration's oil experts assured us that the needs could and would be met. What happened in the winter of 1972-73 is now history. One would have thought, however, that the fuel shortages which occurred then would have provided some warning to Administration policymakers.

The disarray in the administration on energy issues during this period was reflected in the fact that it took 4 months to produce a Presidential energy message for Congress. The message that was first promised for January finally came in April. It then proved necessary to bolster this message with a second message in June.

Meanwhile, the efforts to provide top-level energy policy leadership in the White House continued. In December 1972, citing the large number of Federal agencies in the energy field, many of them working at cross purposes, I had urged the appointment of an energy "Czar"

to provide overall leadership and coordination; 1973 began with the designation of an energy troika of Messrs. Ehrlichman, Kissinger, and Shultz, which never really functioned. Then came the appointment of Mr. Charles DiBona as the President's energy aide. Thereafter Deputy Treasury Secretary Simon, as chairman of the Oil Policy Committee, played a major rôle in energy matters until Governor Love was appointed as head of the Energy Policy Office in June.

While these administrative changes were taking place, those of us involved in energy matters were concentrating on measures to allocate scarce fuels and otherwise deal with impending shortages. Administration officials, under questioning, had testified before the Interior Committee as early as January that they lacked adequate authority to allocate fuels in times of shortages and I had announced in February that I would introduce legislation to remedy this.

From the outset the administration took the position that no allocation system was necessary. At the hearing on my proposed mandatory allocation bill on May 1, 1973, Secretary Simon testified that:

We do not believe that direct government control of fuel distribution is desirable and we hope that we will never have to implement an allocation or formal consumer rationing system.

It was a matter of days, however, before the administration announced a limited voluntary allocation program under the authority provided by Senator Eagleton's amendment to the Economic Stabilization Act.

After the voluntary program had been in effect several weeks, Secretary Simon conceded that it was not working effectively and said a mandatory program would be instituted. Then Governor Love was appointed and he took the issue under advisement. In August, he issued proposed regulations for a mandatory program, but said in effect that they would not work and he hoped not to use them.

Specifically, Governor Love said of his proposed mandatory program:

In spite of our best efforts, this program, as all other mandatory programs has, I believe, significantly flaws both philosophically and practically. I believe that this or any other mandatory program runs the very great risk of reducing, not increasing, the available supplies of fuels.

Finally, the administration was forced, even before the Arab embargo, to start mandatory allocation programs for propane, jet fuel, and heating oil. Precious time has been lost in formulating the policy directives, recruiting the personnel, and establishing the organizational framework to make these allocation programs function properly.

The administration's long delay in focusing on energy issues is reflected not only in the fact that its legislative program was sent to Congress 3 months after Congress convened, but also in the makeup of the program itself. While including long term measures like legislation authorizing deepwater ports and deregulation of natural gas prices, it failed to include short-term measures like fuels allocation authority and it neglected entirely such major issues as energy conservation and research and development.

Sometimes, it is not entirely clear just what the administration's program is. Only this week, administration officials appeared before the Interior Committee and withdrew support for legislation proposed by the administration to terminate certain leases in the Santa Barbara channel and place the area covered by these leases in a national energy

reserve. Yet this is legislation that the President urged Congress to enact even as late as last spring.

The energy program being developed by Congress is, on the other hand, more comprehensive and more balanced between long-term and short-term considerations.

This week, Congress has already completed action on two major energy bills, the legislation to authorize the construction of the trans-Alaska pipeline and to authorize the implementation of a mandatory allocation program for crude oil and petroleum products.

I might point out, Mr. President, that both these bills represent initiatives by the Congress. The trans-Alaska pipeline bill was developed by the Interior Committee, working with the executive branch, after the court of appeals held that the Secretary of the Interior had exceeded his authority in granting a right-of-way for the pipeline. The fuels allocation bill, which I introduced last April, was opposed by the administration from the outset.

The Senate's first energy bill was passed on May 10, 1973. This was Senator Hollings' proposal to create a Council on Energy Policy in the Executive Office of the President.

The Senate has also passed two important bills which provide the standards and institutional mechanisms for reconciling our energy and environmental needs. I refer to the National Land Use Policy Act—passed on June 21, 1973—and the National Surface Mining and Reclamation Act—passed on October 9, 1973.

Another congressional initiative has been in the critical field of energy research and development. When I introduced legislation authorizing a massive 10-year, \$20 billion energy R. & D. program on March 19, 1973—with the cosponsorship of 27 Senators—the Administration turned a deaf ear. But as the serious nature of our energy situation became more apparent the administration's attitude has changed. The President is now publicly committed to the kind of program we proposed last spring. But the question still remains whether the administration will commit the funds to make a real R. & D. effort. At this moment, the Office of Management and Budget has impounded more than \$20 million in funds for energy research and development.

The administration's record on development of our geothermal steam resource is cause for concern about the strength of its commitment to energy research and development. The fact is that Congress in 1970 authorized leasing of the public lands for development of geothermal steam. As of today, the administration has yet to promulgate the regulations that would permit public lands to be leased for this purpose. Under the determined leadership of Senators Bible and Church, the Interior Committee has been pushing hard to accelerate geothermal development. But the administration has opposed legislation pending before the Interior Committee to speed commercial development of geothermal energy through a program of loan guarantees. And it has impounded the additional \$7 million appropriated by Congress earlier this year for geothermal development.

Another research area where Congress has consistently taken the leadership is coal research. As a member of the Appropriations Committee, Senator Byrd of West Virginia has long worked for funds to expand our coal research programs. In this year alone, he succeeded in adding almost \$40 million to the administration's budget to accelerate

research on coal gasification, coal liquefaction and improvements in mining technology.

It is worth noting, Mr. President, that the administration has also opposed the National Fuels and Energy Conservation Act, introduced on July 13, 1973, reported by the committee and now pending on the Senate Calendar with action planned in the immediate future. This legislation, which lays the foundation for a serious energy conservation effort, is cosponsored by 35 Senators.

Despite the critical importance of efforts to reduce energy demand, the administration has never submitted any legislation on this subject to the Congress. It has not only opposed my bill, but also opposed major bills on this subject developed by the Commerce Committee. In a letter dated July 31, 1973, Assistant Secretary of the Interior Wakefield opposed my bill on the ground that adequate authority for a conservation program already exists. He also argued that the bill "calls for a fractionated and less well organized approach to the vital matter of energy conservation than the current Federal program."

The effectiveness of the Federal program is, quite frankly, still very much in doubt as the need for serious conservation efforts grows greater than ever.

The administration has also opposed legislation which I introduced on April 16, 1973, to establish a national strategic petroleum reserve in order to minimize the impact of disruption of our oil imports. Although the administration supports the concept of such a reserve and agrees that legislation is necessary, it opposed my bill and has yet to submit its own legislation on this subject.

In a letter dated October 26, 1973, the Office of Management and Budget endorsed the Interior Department's opposition to the bill on the grounds that creation of the reserves system called for in the bill "would be extremely costly and is considered unnecessary."

Finally, Mr. President, the record should be clear as to legislation dealing with the present energy emergency. I introduced the National Emergency Petroleum Act, to provide the President with adequate authority to deal with this crisis, on October 18. At that time, it was obvious that a critical energy situation was developing as a result of the Arab oil embargo. Yet it was 2 weeks after that before the administration was able to respond with tentative emergency proposals of its own. Again, congressional initiative was required to stimulate administration action.

I want to emphasize that the administration had discretionary authority under the Defense Production Act, the Economic Stabilization Act, and other statutes to make contingency plans, to prepare for rationing, and to allocate scarce fuels. But it has never been willing to face up to the realities of the situation. Congress, at every turn, has had to force the administration to act, either by proposing, enacting, or threatening to enact appropriate legislation.

Let me repeat, Mr. President, that the unprecedented efforts of this Congress on energy matters have been on a bipartisan basis. I wish to acknowledge, in particular, the great contribution of Senator Fannin and his Republican colleagues on the Interior Committee. Senators of both parties have worked long and hard on these issues. I am confident that we are developing a legislative program that will enable the Federal Government to deal with our critical energy problems and serve as a basis for long term national energy policy.

SENATE DEBATE ON S. 2589, NOVEMBER 16, 1973

NATIONAL ENERGY EMERGENCY ACT OF 1973

The Senate resumed the consideration of the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of the unfinished business, S. 2589, which the clerk will state by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDENT pro tempore. The pending question is on agreeing to amendment No. 652 by the Senator from New Hampshire (Mr. McIntyre).

Mr. JACKSON. Mr. President, I ask unanimous consent that the McIntyre amendment be temporarily laid aside in order to take up an amendment by the distinguished Senator from Louisiana (Mr. Johnston).

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment offered by Mr. Johnston is as follows:

On page 17, before line 19, insert the following:

"Provided, That fuels not subject to regulation or allocation under this act shall not be considered in determining the fuel needs or supplies, of geographic areas or States of the United States."

Mr. JOHNSTON. Mr. President, yesterday the distinguished Senator from Missouri (Mr. Eagleton) offered an amendment providing for the equitable allocation of petroleum products and fuel around the regions of the country and the States of the country. This was clearly explained by the Senator from Missouri as not amending or not modifying that requirement of the petroleum allocation bill which also provided for equitable allocation according to need, such as the need of schools, transportation, and other priority needs.

The Senator from Missouri also stated that there was no intent to regulate any fuels that were not otherwise regulated within the four corners of S. 2589, the bill under consideration. However, there was some ambiguity left, and this amendment is simply to clear up that ambiguity, in that those fuels which are not regulated are not to be considered in determining the needs of each State and each region of

the country. Examples are intrastate gas not otherwise regulated, and timber, which can be considered as a fuel. This was specifically stated on yesterday.

The amendment has been cleared with the distinguished Senator from Missouri (Mr. Eagleton), as well as the majority and minority, and I ask for adoption of the amendment.

The PRESIDING OFFICER (Mr. Hart). The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senate will now return to the McIntyre amendment. The question is on the McIntyre amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that the McIntyre amendment be deferred momentarily in order that the amendment to be offered by the distinguished junior Senator from Georgia (Mr. Nunn) may be presented at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I offer my amendments identified as No. 659, as modified, on behalf of myself, Mr. McIntyre, Mr. Nelson, and Mr. Javits, and ask unanimous consent that the name of the Senator from Ohio (Mr. Taft) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (No. 659), as modified, are as follows:

AMENDMENTS No. 659

On page 29, after line 21, insert the following as new subsections (b) and (c):

(b) It is the sense of the Congress that small business enterprises should cooperate to the maximum extent possible in achieving the purposes of this Act and that they should have their varied needs considered by all levels of government in the implementation of the programs provided for by title II.

“(b) In order to carry out the policy stated in subsection (a)—

“(1) the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the provisions of the programs provided for in title II which particularly affect such enterprises, and the activities of the various departments and agencies under such provisions, and (B) shall, as a part of its annual report, provide to the Congress a summary of the actions taken under programs provided for in title II which have particularly affected such enterprises;

“(2) to the extent feasible, Federal and other governmental bodies shall seek the views of small business in connection with adopting rules and regulations under the programs provided for in title II and in administering such programs; and

“(3) in administering the programs provided for in title II, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.”

Mr. NUNN. Mr. President, this amendment is being proposed on behalf of myself and Senators McIntyre, Nelson, Javits, and Taft as expressing the sense of the Congress that small business concerns which would be directly affected by this legislation in many ways be treated equitably. This amendment does not suggest exemptions for small business, but contemplates that they should do their fair share in return for being treated fairly.

Secretary of Commerce Frederick B. Dent predicted this week that some businesses will be forced into failure because of current energy shortages. The National Emergency Petroleum Act of 1973 (S. 2589) is one attempt to minimize the impact of these shortages. It declares a "national petroleum emergency" and authorizes conservation measures to be taken on the national, State, and local levels. It will affect small businesses directly in at least four areas:

First. The emergency rationing and conservation program under **section 203** will have a direct impact on every small business, as decisions must be made as to which business functions are "vital services," that will be maintained; and which will be classified as "unnecessary energy consumption" that will be curtailed.

Second. The reduction of energy consumption by 10-25 percent by way of such measures as limitations on operating hours of commercial establishments and temperatures restrictions on wholesale and retail businesses, also under **section 203**.

Third. The modification of transportation carriers routes, rates, and level of operations under **section 204**.

Fourth. The authority to adjust the mix of products of domestic refineries under **section 207**.

As the act goes into operation, it is likely that a series of problems will develop for small firms under these and other provisions.

For information, there are reported to be 8½ million operating full-time commercial businesses, and a total of 12 million business enterprises in the country. About 97½ percent of this total are small business.

These small companies, partnerships, and individual proprietorships are the foundation of the economy—particularly in smaller towns—providing approximately one-half of all employment nationally, and somewhere around 40 percent of the gross national product. They also provide vital goods and services to many public and private institutions.

Because of the variety of economic functions performed by these firms, a large number of them will, almost by definition, present individual cases under any national control program of this kind.

Accordingly, Senators McIntyre, Nelson, Javits, Taft, and I, and other Members, feel that it is important to recognize these small business difficulties early before it is too late for thousands of firms.

Our amendment would express the sense of Congress that the "varied needs of small business" be considered by all levels of Government in the implementation of the energy conservation program.

In order to carry out this policy, the amendment recommends that "to the maximum extent feasible" governmental bodies seek the views of small business in adopting the regulations under the act and also administering them. The amendment also urges that small business applications or appeals be given "expeditious handling."

Finally, the amendment would have the Small Business Administration become knowledgeable about these programs so that the agency will be in the position to help the small business community comply with them.

The basic framework of the amendment is taken directly from section 214 of the Economic Stabilization Act—Public Law 92-210, De-

cember 22, 1971—with a few modifications. The format of both is a sense of Congress declaration, because both economic controls and the energy controls are so far reaching that precision at the beginning is impractical. The problem at the outset is to raise small business problems to the level of visibility.

Our amendment does not suggest exemptions for small business, but contemplates that they should do their fair share in return for being fairly treated. In our opinion they should not be asked to do more than their fair share.

Our amendment adds the suggestion that SBA monitor and report on the effect of these emergency measures on small business in its annual report which is presently submitted to the Congress. This would give Members of the House and Senate needed information on how these programs are affecting their constituents, in order to identify what statutory or administrative changes may be called for. Our amendment parallels the prior law by providing a focus at the Small Business Administration so that a small businessman is not helpless and has somewhere to go in Washington if he is about to be put out of business by imbalances in the program.

We know that the energy conservation programs contained in this act will be applied very rapidly. We believe that there must be some small business consciousness and input at an early stage before the rules are set in concrete to the disadvantage of many small firms.

The press has reported that this may be "Energy Week" on Capital Hill. I believe that the energy problems will be with us for many weeks, months, and even years. I feel that Congress must be careful in considering emergency action so that we do not destroy gains that small business has painfully won over many years, thereby reducing competition in our Nation.

The amendment we propose today would thus give statutory recognition to small business—to the contributions they can make to the success of energy conservation and the individual problems which they will surely face as our Nation moves decisively to deal with the present energy crisis. Later this month, I plan to hold public hearings to gain an early assessment of how these many programs are affecting the small business community.

Mr. McINTYRE. I am pleased to join with the Senator from Georgia (Mr. Nunn) in supporting a small business amendment to the pending bill.

Senator Nunn has identified the major problem of small businesses this winter, and possibly for a long time to come. All business firms use petroleum products, both as fuels and as raw materials. They are vitally affected by the measures proposed by this bill.

The amendment perceives, I believe, the most serious problem of small business under these programs and any other emergency machinery of this kind—the smaller firms tend to get lost in the rush. This amendment aims at raising small business difficulties, in all their variety, to the level of visibility of Federal, State, and local government authorities.

The proposal is patterned after a provision of the economic stabilization legislation which I offered in the Senate Banking Committee, and which subsequently became section 214 of the Economic Stabilization Act—Public Law 92-219. This provision has worked in a satis-

factory manner, and I believe has been helpful to small business under price and wage controls. For this reason I joined as a cosponsor of Senator Nunn's amendment.

Accordingly, I commend the Senator from Georgia for putting forward this amendment, and urge its adoption by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendments, as modified.

The amendments (No. 659), as modified, were agreed to.

The PRESIDING OFFICER. The Senate will now return to the McIntyre amendment.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the pending McIntyre amendment be set aside at this time and that we proceed to consider another amendment.

Mr. JACKSON. Mr. President, I do not know whether we have any more right now.

Very well; the Senator can take up his other amendment.

Mr. McINTYRE. Mr. President, I ask unanimous consent that my pending amendment be set aside and that we may proceed to another amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I call up for consideration an unprinted amendment to S. 2589. This amendment would add a new section to the bill.

The PRESIDING OFFICER. Would the Senator send his amendment to the desk in order that we may have it read?

The clerk will now report the amendment.

The legislative clerk read the amendment, as follows:

At the end of the bill, add the following new section:

"Sec. . Nothing contained in this Act shall be interpreted or construed as repealing or amending the authority contained under the Emergency Petroleum Allocation Act of 1973 (Con. Rept. No. 93-628, Nov. 10, 1973)."

Mr. McINTYRE. Mr. President, this amendment would add a new section to the bill making it clear that nothing contained in the National Emergency Energy Act of 1973 shall be construed as repealing or amending the Emergency Petroleum Allocation Act of 1973 which was cleared by the Senate yesterday and sent to the President.

As we all know, the Senate passed this bill initially on June 5 of this year. Under the leadership of the floor manager, Senator Jackson, the mandatory allocation bill was an early recognition of the situation in which we now find ourselves and strengthened considerably the initial language that Senator Eagleton and I included in the Economic Stabilization Act providing Presidential allocation authority for petroleum products.

My concern is that the bill presently before us is so broad and far reaching that it should be made clear that Congress' intent is that the Emergency Energy Act is supplemental to, rather than superseding, the mandatory petroleum allocation bill.

This amendment would simply make that intent of Congress clear.

Mr. JACKSON. Mr. President, may I respond to my good friend by saying that there is no need for the amendment. The mandatory allocations bill, which was sent to the President day before yesterday, completely covers this problem.

Second, there is nothing in the pending measure that modifies, repeals, or otherwise changes anything in the Mandatory Allocations Act bearing on the amendment offered by the Senator.

I wish to give that assurance and make it a part of the legislative history of the pending measure.

Mr. McINTYRE. It is my understanding, then, that the manager, and the Senator who is most familiar with the terms of the Mandatory Allocation Act, can assure me that there is nothing in the bill that we are presently considering that will repeal or amend our action and that it will stand on its own two feet.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. McINTYRE. I yield.

Mr. HANSEN. I subscribe to the statement just made by the distinguished Senator from Washington. It is my understanding that the bill as was approved yesterday does do all the things the Senator from Washington attributes to it.

Mr. McINTYRE. Then, Mr. President, with the strong assurances from both the minority manager and the majority manager of the bill, I withdraw my amendment at this time and ask unanimous consent to do so.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. McINTYRE. Mr. President, I have a further amendment to offer at this time, and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read the amendment, as follows:

On page 12, line 13, after the word "by" insert the following: "insufficient domestic refining capacity,".

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the amendment.

Mr. McINTYRE. Mr. President, this is a very simple amendment. It would add to the section of the bill stating Congress findings that shortages were caused not only by those factors enumerated in the bill but also included insufficient domestic refining capacity.

As we know, this country is using approximately 17 million barrels a day of crude oil while, at the same time, we only have the capacity to refine 12.5 million barrels of product.

I feel that it is important for Congress to include in its findings on the shortages of oil that insufficient domestic refining capacity also exists and that this has contributed to the present situation.

Mr. JACKSON. Mr. President, this is a clarifying amendment. It is a helpful amendment. I commend the Senator for offering it.

I am very pleased, Mr. President, on behalf of the majority and minority sides to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire. [Putting the question.] Without objection, the amendment is agreed to. The Senate will now return to the consideration of the original language.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. It is my understanding that the McIntyre amendment is pending.

Mr. JACKSON. Mr. President, I ask unanimous consent that the distinguished Senator from Texas (Mr. Bentsen) may offer his amendment at this time and that the McIntyre amendment be temporarily laid aside for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

On page 30, line 26, after "code" insert the following: "Notwithstanding the provisions of this subsection no program shall in any event be implemented upon less than five days notice to permit receipt of written or oral comment on the proposed program."

On page 31, strike lines 1 through 12 and insert the following: "Any agency authorized by the President to issue rules, regulations, or orders under this Act shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardships, inequity or an unfair distribution of burdens and shall in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section."

Mr. BENTSEN. Mr. President, this amendment makes two very specific changes in the language of the bill concerning the administrative procedures to be followed under this act.

The first is an amendment to **section 309(a)** of the bill which would add an additional sentence requiring that no program be implemented without giving at least 5 days notice to permit written or oral comment. The bill as presently written retains the notice and rulemaking language of the Administrative Procedure Act but there is an exception clause in that act, 5 U.S.C. 553(d)(3), which would allow the agency to implement rules without giving any notice at all. This clause has been invoked a number of times by the Cost of Living Council in its procedures and the results have invariably been disruptive. It seems to me an elementary consideration of fairness to allow an affected party to learn above a Government decision before it is implemented and to have an opportunity to comment if he so desires.

The 5-day notice, which would be required by this amendment, should give an interested party time to make his objections known to a decision while at the same time allowing the Government to move with necessary speed. It is important that a balance between these two needs be maintained and that is the reason for my amendment.

The second part of my amendment also deals with the administrative procedures proscribed under this bill. It would amend **section 309(b)** by requiring the agency implementing rules under the act to observe certain rules of fairness and equal burden sharing in its program. In

the long run, and these programs may well have a life beyond 1 year, the energy programs we are authorizing today will only be acceptable to the public if they are designed and carried out in a manner that is fair and which results in an even sharing of the burden by us all.

The amendment I am proposing would require the rulemaking agency to make adjustments in its programs to avoid special hardships, inequity, or an unfair distribution of the burdens imposed by the act. At the present time, there is no language requiring the consideration of such equity issues and I feel that unless we place such a requirement in the statute itself we run the risk of establishing an arbitrary rulemaking agency that ignores elementary issues of fairness and seriously undermines the public support for this program.

I support the purposes of this emergency energy bill and I think the Senator from Washington has done a tremendous job in bringing it before us in such a short time. I feel this amendment will strengthen the act in its administrative procedures and I urge adoption by the Senate.

Mr. JOHNSTON. Mr. President, we support the amendment of the Senator from Texas and congratulate him for significantly improving the bill which has been written for the purpose of dealing with an emergency measure of this type under the demands of time without the time to put the machinery together with the kind of consideration that is clearly needed. It is entirely possible that we will have inequities and difficult situations arise which must be adjusted.

What this amendment does is allow time to adjust those differences, allowing 5 days' time to comment on regulations before they are promulgated, and allowing for adjustments in the event of extraordinarily difficult situations.

We think it significantly improve the bill, and we congratulate the Senator from Texas and urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

AMENDMENT NO. 652

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment (No. 652) of the Senator from New Hampshire (Mr. McIntyre). The Senator from New Hampshire is recognized.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I send to the desk a modification of my amendment (No. 652) offered yesterday, and ask that it be stated.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

At the end of section 207 add the new subsection:

(f) Pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2) (A) of such Act), the President is authorized to limit the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product to achieve the purposes of this Act.

The PRESIDING OFFICER. The amendment will be so modified.

M. McINTYRE. Mr. President, as a result of conversations held with minority members, the Senator from Arizona (Mr. Fannin), and associates, we have decided that this modification will accomplish the result that I intend.

I would just like to say, in support of it:

First, the legislation that we are amending, the National Emergency Energy Act of 1973, is only in effect for 1 year.

Second. The amendment gives the President authority to halt exports; it does not require him to do so.

Third. The President himself has informed Congress that under the Export Administration Act that he does not have the flexibility he needs to deal with the export of scarce commodities and has requested amending language to that act to give him greater flexibility.

Fourth. Yesterday, Senator Fannin indicated his concern that this amendment might be used by the President to cut off oil products that we supply to Mexico and to some of our other friends. I should like to point out, as I just said, that this amendment only provides the President with the authority to control exports. More importantly, however, is that **section 202(b)** authorizes the President to enter into understandings, arrangements, and agreements with foreign countries with respect to trade in fossil fuels and that any formal agreement entered into would be submitted to the Senate for approval but during that time the agreement would remain operative. My amendment, combined with **section 202(b)** of the bill should give the President the flexibility to handle individual cases such as that Senator Fannin pointed out with Mexico.

Fifth. I would like to make it clear what the real intent of this amendment is. Apparently, beginning this summer, a few oil companies having refineries in the United States realized a way to get out from under the Cost of Living Council's price rules on petroleum products. This was done by shipping overseas a tankerload of product on which there are presently no export controls and then reshipping either that same product or a like amount back into the United States free of export controls.

I have written to Secretary Morton asking that I be supplied with a list of the companies exporting distillate but, as yet, have not received a response. The primary purpose of my amendment is to give the President the authority to step in and stop exports of finished product whose purpose is primarily to avoid domestic price controls.

This morning's paper has a headline on the front page entitled "Fuel Experts Cite Danger of 1974 Recession." I simply cannot accept a continuation of exports of finished products out of this country whose primary purpose is to avoid Federal pricing policies.

This is the thrust of my amendment and, as I said earlier, **section 202(b)** of the bill should clearly give the President the authority to deal with situations such as that described by Senator Fannin. The situation is critical. This bill provides for rationing and conservation measures, the purpose of which is to cut consumption of energy in this country by 25 percent 4 weeks after passage.

If we are to ask the American people to cut one-fourth of their energy use, then I think it is incumbent upon us to also make sure loopholes do not remain whereby a few unscrupulous oil companies

can use a provision in the Cost of Living Council's price regulations to export domestically refined finished product and then import that same product at a substantial price increase to be borne by the American public.

This is grossly unfair and should be stopped immediately.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire, as modified.

Mr. JACKSON. Mr. President, I want to commend the Senator from New Hampshire for modifying the amendment. I think we can all agree that in the area of trade we can run into some very complex problems. The last thing that we want to do is include any language in an amendment that would be cause for retaliation on the part of friendly countries. I just want to say—and I shall file a more detailed statement later—that the pending amendment, in my judgment, will not cause that kind of development.

It has come to our attention that there have been some abuses in the process of the export of petroleum products, in which some firm or firms may have taken advantage of the relative price situations here and abroad to the detriment of a critically short fuel market in the United States and that those who will suffer as a result. This amendment, if I understand my good friend from New Hampshire's intent will deal with those bad practices. It is not intended in any way to cause an adverse situation to develop in our good relations with friendly countries.

I therefore am pleased to accept the Senator's amendment, and I commend him for the modification that he has made in order to resolve some ambiguities that might be misinterpreted.

I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I thank the distinguished chairman of the committee.

With further regard to my yesterday's remarks about the dangers of export controls, I would like to make the following points:

First. The United States imports far more petroleum than it exports. During 1972 the United States imported approximately 4.7 million barrels per day. During this same period the United States exported approximately 222,000 barrels daily of petroleum products, of which 38 percent was petroleum coke which was surplus to the U.S. needs. Also included were substantial quantities of lubricating oils—18.4 percent—which are high value products contributing positively to the balance of trade. The remaining exports represent a variety of products including residual fuel oil to be used as fuel, to the extent of about 31,000 barrels per day—14.8 percent—which was exported primarily to Mexico and Canada in cross border trading. Each of these countries are substantial exporters to the United States. This movement of required petroleum and petroleum products across borders provides an economical method of supplying demand with product from the nearest refining center.

The United States is seeking to import larger and larger quantities of petroleum and petroleum products. It has been estimated that approximately 45 to 50 percent of petroleum used in the United States will be imported by 1980. Very substantial exports are required during

the short term. It is not anticipated that exports will change significantly. The differential in prices between the United States and the rest of the world now encourage exports of petroleum products. This situation is not expected to continue over the long term. If prices are at a parity it can be anticipated that only products surplus to the United States will be exported.

To place export controls on petroleum and its products in order to serve a short-term purpose would make the United States vulnerable to the possibility other foreign refining centers would justify retaliatory action based upon this action by the United States. It would be difficult to urge other nations to increase exports to the United States while we at the same time were imposing export restrictions.

The primary moving force to impose restrictions upon petroleum and its products is recent shipments of distillates at a time when the United States is short of distillates. A substantial volume of these exports were to the Netherlands Antilles and Venezuela. These distillates were used to facilitate movement of products to the east coast of the United States. The only shipments not in the normal pattern of trade were the shipments to European countries. These shipments probably would not have occurred except for the price differential, however, the shipments represent less than approximately one-half of 1 percent of the total U.S. requirement for distillate. Exports of this magnitude are not a threat to U.S. supply.

Second. The United States generally has advocated expansion of foreign trade and has only with reluctance adopted import or export controls. The authority for such controls exists in the Export Control Act of 1969. Not only would it be contrary to an existing long-term policy to impose export controls, but it would also be redundant in that the authority to do so already exists. It is our understanding that there are many other products other than petroleum products that are pressing continuously for invocation of the act in order to protect those products. It would be difficult to avoid similar legislation for other products moving farther away from the concept of free trade.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 652) of the Senator from New Hampshire (Mr. McIntyre), as modified.

The amendment, as modified, was agreed to.

Mr. JACKSON. Mr. President, I call up my amendment on unemployment insurance, which is at the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JACKSON's amendment is as follows:

Add a new title IV, "Assistance to Persons Adversely Affected By This Act," as follows:

SEC. 401. ASSISTANCE TO PERSONS UNEMPLOYED AS A RESULT OF THIS ACT.—(a) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance to a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not

less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred and shall be reduced by an amount of private income protection insurance compensation available to such individual for such period of unemployment.

(b) (1) **FOOD STAMPS.**—Whenever the President determines that, as a result of any such employment loss, low-income households are unable to purchase adequate amounts of nutritious food, the President is authorized, under such terms and conditions as it may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964, as amended, and to make surplus commodities available.

(2) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the employment loss on the earning power of the households, to which assistance is made available under this section.

(3) Nothing in this subsection shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 as amended, except as they relate to the availability of food stamps in such an employment loss.

(c) **REEMPLOYMENT ASSISTANCE.**—The Secretary of Labor is authorized and directed to provide reemployment assistance services under other laws of the United States to any such individual so unemployed. As one element of such reemployment assistance services, such Secretary shall provide to any such unemployed individual who is unable to find reemployment in a suitable position within a reasonable distance from home, assistance to relocate in another area where such employment is available. Such assistance may include reasonable costs of seeking such employment and the cost of moving his family and household to the location of his new employment.

(d) **SMALL BUSINESS LOANS.**—(1) The President, acting through the Small Business Administration, is authorized and directed to make loans (which for purposes of this subsection shall include participation in loans) to aid in financing any project in the United States for the conduct of activities or the acquisition, construction, or alteration of facilities (including machinery and equipment) required by the administration or enforcement of this Act, for applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality (including units of general purpose local government) is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation or at previous levels of employment.

(2) Financial assistance under this section shall be on such terms and conditions as the President determines except that—

(A) no loan shall be made unless it is determined that there is reasonable assurance of repayment;

(B) no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years;

(C) loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum;

(D) loans shall not exceed the aggregate cost to the applicant of acquiring, constructing, or altering the facility or project;

(E) the total of all loans to any single applicant shall not exceed \$1,000,000; and

(F) the facility or project has been certified by the regulatory authority as necessary to comply with the requirements of this Act.

(e) **APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(f) **REPORT TO CONGRESS.**—The Secretary shall report to the Congress on the implementation of this section not later than six months after the enactment of this Act, and annually thereafter. The report required by this subsection shall include an estimate of the funds which would be necessary to implement this section in each of the succeeding three years.

Mr. JACKSON. Mr. President, I ask unanimous consent that the vote on this amendment occur at 11:15 a.m. today.

The PRESIDING OFFICER (Mr. Abourezk). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the amendment.

There was not a sufficient second.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I shall be very brief in my opening remarks. May I say, first, that a number of members of the Committee on Interior and Insular Affairs will be at the White House at 10:30 a.m. today for the signing of the Alaska pipeline bill. It is for that reason we have tried to set a specific time, which we have done, for the rollcall vote on the pending amendment.

Mr. President, the amendment, in essence, is identical to the amendment offered by Senator Randolph and adopted by the Senate in connection with the so-called surface mining bill. I know that the Senator from West Virginia strongly supports the objectives of this amendment to lessen the adverse impact of the National Energy Emergency Act on employees in the industries and businesses that will be affected, I commend our colleague from West Virginia (Mr. Randolph) for first stressing the importance of this type of provision during consideration of the surface mining bill.

The purpose of the amendment is to provide unemployment insurance benefits and assistance to persons adversely affected by actions taken in compliance with this act.

I think that the statements made this morning and yesterday by the able majority leader dramatize the serious economic problem facing the Nation. We have heard so much about shortages of gasoline, shortages of heating and fuel oil, that we have neglected to call attention to the collateral impact of the energy shortage.

In fact, Mr. President, the collateral impact economically can be far more serious than the direct impact of energy fuel shortages, as has been described here during the course of debate on this bill and on the other energy bills.

There is a duty on the part of the Federal Government to provide assistance to the States in order that the States can meet their obligations in connection with any possible economic crisis that may develop as a result of the ongoing shortages.

We hope that there will not be need for it. On the other hand, I think it is well to be prepared, and adequately prepared, to deal with all aspects of economic adjustments growing out of this crisis.

Mr. AIKEN. I have not had a chance to read the whole amendment, but I notice it applies to those who become involuntarily unemployed because of the act which we may pass within the next 2 or 3 weeks.

What about the person who can still be employed but because of the additional costs imposed, would bring his income down to half what

it would be if he could get the gas necessary to reach his normal place of employment, which may be 20, 30, 40 miles away?

Is there a provision in the amendment which would enable the States, through their allocation from the Federal Government, to make up for this loss of salary. He might want to continue to work; they might want him to continue to work. But he might be put in a worse position than if he were unemployed.

Mr. JACKSON. Mr. President, I do not know how one would cover the difficult question posed by the distinguish Senator from Vermont. The amendment does provide for assistance, through the Small Business Administration. It is found on page 3 of the amendment, paragraph (1):

is directed to make loans to aid in financing any project in the United States for the conduct of activities . . . or the acquisition, construction, or alteration of facilities.

In other words, we are trying here to cover, first, those directly unemployed. Second, we are trying to cover business, especially small businesses, that are adversely affected.

We provide for food stamps for those who would not be eligible because they have other resources—say, unemployment insurance—or they are not qualified for unemployment insurance, but they would be eligible for food stamps.

We are trying to cover all these fringe areas, but I do not know how you cover a man, for example, who has been partially affected in an adverse way. It is a most difficult thing to define.

Mr. AIKEN. I think there must be a very large number of them. I have specific cases in mind—for example, where the employer needs the employee so badly that he will not discharge him. But, at the same time, the employee is in a worse position if he keeps on with his employment. I think there must be many of them, particularly since we have encouraged people to go out of the cities and live in the rural areas, where they perhaps produce food or raise a few head of beef cattle, and get their main source of income from some industry located in town. I think they are going to be in the worst shape. I hope some way can be devised to cover them. That is a situation in which the employer needs the person so badly that he will not fire him, and he is not unemployed.

Mr. JACKSON. The Senator, as always, is an able interrogator, and he can pose some very difficult problems. Frankly and candidly, I do not have an answer to the question.

Mr. President, I have a constituency in western Washington, that is not dissimilar in many ways, from that of the Senator from Vermont. We have many people who live out in what we call the "logoff area." We call them "stump ranchers." They fend for themselves. They work part time. They will have problems in getting the necessary fuel. One of the problems as to whether eligibility on unemployment insurance could be established is whether or not it is caused by this act.

In other words, as the lawyers say, you have the legal doctrine of proximate cause. You have to show that there is a causal connection between what the person is applying for and what happened under this act.

All I can say is that we are going to do our best. It seems to me that this is the minimum, that we should do, in light of the notice we have received of adverse developments economically.

Mr. AIKEN. I thank the Senator from Washington. I appreciate the position in which the chairman finds himself. We all find ourselves in a similar position from time to time.

When the news media ask me if I mind a few questions. I always tell them the questions do not bother me in the least; it is just the answers. Apparently, it is just the answer that bothers the Senator from Washington at this point.

Mr. JACKSON. I thank the Senator from Vermont.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, it is a privilege to support the amendment of the able Senator from Washington (Mr. Jackson) with whom I have had the privilege of working closely on the National Energy Emergency Act. I am appreciative of Senator Jackson's earlier remarks indicating my involvement in this type of legislation.

We are all striving diligently and expeditiously to secure a solution to our energy crisis. However, as we move forward we cannot overlook adverse effects of the fuels and energy conservation and redistribution authorities in this bill on our citizenry. Workers who lose their jobs as a result of this legislative activity must be protected. These individuals and their families cannot be neglected.

I recognize that S. 2589 contains a declaration of purpose calling for the minimizing of adverse effects of fuel shortages and dislocations on the economy and industrial capacity of our Nation. Additionally, the legislation directs that the President shall take into consideration and minimize to the maximum extent practicable any adverse impact upon employment and directs also that all agencies of the Federal Government shall cooperate within their existing statutory authorities to achieve this objective. However, I share the firm conviction of the Senator from Washington (Mr. Jackson) that there must be more substantial provisions in this bill to insure that there is assistance to persons who are affected adversely by actions under this measure.

The pending amendment would provide direct economic assistance, reemployment service, food coupon allotments, surplus commodities and small business assistance. This would certainly lessen the possible hardships over which the affected workers and families would have no control.

I urge Senators to support this vital amendment.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Helms). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that despite the previous unanimous-consent order, it be in order for the Senator from Utah to offer an amendment at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. Moss. Mr. President, I call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. Moss. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the record.

The amendment is as follows:

On page 23, line 7, insert the following:

(f) the President shall organize and cooperate with the advertising industry and advertisers in developing a national energy conservation advertising program and in promoting educational programs to foster public acceptance of energy conservation needs and opportunities.

Mr. Moss. Mr. President, very simply, this amendment would add one more provision to the section of the bill entitled "Federal Action for Fuel Conservation." This new action would be a Presidentially organized advertising program designed to promote energy conservation and to make the public aware of the need for and opportunities for such conservation.

The noted advertising authority, E. B. Weiss, commented just 7 weeks ago that we have taught the public through advertising of cheap, plentiful energy, and now is the time to teach, through advertising, the need for energy conservation.

Just this week, Advertising Age, the noted trade journal of the industry, editorialized on the need for a massive redirection of advertising budgets toward energy conservation activities. I believe that this is a most necessary effort for us to undertake if we are to get through this severe shortage period.

Mr. President, what we really need now is to redirect the ethic we have had of using energy widely, because it is so cheap, to where we consider very carefully what we use our energy for—use it for necessities, but not wastefully.

I have discussed this matter with the minority members of the committee, and I think the amendment is acceptable to them. I have discussed it with the manager of the bill, and I ask for the adoption of the amendment.

Mr. JACKSON. Mr. President, we are prepared to accept the amendment. It is a proposal for an educational program. I think it could be helpful in a national energy conservation program. I commend the Senator from Utah for offering the amendment, and we are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I have long been one of the leading proponents in the Senate of programs to assure adequate nutrition for the people of this country. As ranking Republican on the Select Com-

mittee on Nutrition and Human Needs, I have worked to improve and expand the food stamp program, the school lunch and breakfast programs, supplemental food program, and nutrition for the elderly. In addition, I have worked to consolidate all the child nutrition programs to assure more effective use of Federal dollars in providing better nutrition for our children.

I feel constrained today, however, to vote against the Jackson amendment to the national energy emergency bill pending before the Senate. The amendment would have allowed people, not otherwise eligible, to receive food stamps and unemployment compensation if they were adversely affected by the fuel crisis or by Federal actions taken to solve that crisis.

My initial objections to the amendment are that we have had no hearings on the proposal and that there was only cursory debate on the floor of the Senate. Furthermore, we cannot estimate what the cost of implementing this amendment might be to the Federal Government and, ultimately, to the taxpayers. I am always reluctant to take action on a bill or on an amendment without knowing what the costs associated with that action will be. That is why passage of the congressional budget bill, recently reported 13-0 by the Senate Government Operations Committee, is so crucial. Enactment of this bill would require cost information before any bill could be passed in the future.

I also object to this amendment because it would set up separate eligibility standards for food stamps for a certain category of individuals. It does not seem to me that people suffering hardship because of fuel shortages should be treated differently from those suffering hardship from other causes. Eligibility standards for food stamps should be uniformly applied and should not depend on the cause of the hardship.

The eligibility standards for food stamps are clearly spelled out by law, and the Department of Agriculture uniformly applies these standards across the country. All Americans who meet the requirements of monthly income, assets, and other provisions for eligibility can receive food stamps. There are no spending limits on the food stamp programs; whoever applies and is found eligible will receive assistance. If the fuel crisis adds large numbers of Americans to the ranks of those eligible for food stamps, they are already assured of participation in the program.

Therefore, Mr. President, not knowing its impact in terms of numbers of people affected, or cost, and not wanting to discriminate among different categories of people, I voted against Senator Jackson's amendment to the National Energy Emergency Act. My action in this matter should in no way be interpreted to mean that I am unconcerned about the welfare of those Americans who may suffer adverse economic effects because of the energy crisis. I am concerned, but solutions proposed by Congress should reflect careful thought and detailed planning and must apply equally to all Americans.

THE PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington (Mr. Jackson). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. Cranston), the Senator from Hawaii (Mr. Inouye), the Senator

from Massachusetts (Mr. Kennedy), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Georgia (Mr. Talmadge), and the Senator from Maine (Mr. Muskie) are absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Humphrey), and the Senator from Georgia (Mr. Talmadge) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Idaho (Mr. McClure), and the Senators from Ohio (Mr. Taft and Mr. Saxbe) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "yea."

The result was announced—yeas 73, nays 12, as follows:

[No. 488 Leg.]

YEAS—73

Abourezk	Eagleton	McIntyre
Aiken	Eastland	Metcalf
Allen	Ervin	Mondale
Bayh	Fong	Montoya
Beall	Fullbright	Moss
Bellmon	Gravel	Nunn
Bennett	Griffin	Packwood
Bentsen	Gurney	Pastore
Bible	Hart	Pearson
Biden	Hartke	Pell
Brock	Haskell	Proxmire
Brooke	Hatfield	Randolph
Burdick	Hathaway	Ribicoff
Byrd, Harry F., Jr.	Hollings	Schweiker
Byrd, Robert C.	Hughes	Scott, Hugh
Cannon	Jackson	Stafford
Case	Javits	Stevens
Chiles	Johnston	Stevenson
Church	Long	Symington
Clark	Magnuson	Tunney
Cook	Mansfield	Weicker
Cotton	Mathias	Williams
Dole	McClellan	Young
Domenici	McGee	
Dominick	McGovern	

NAYS—12

Bartlett	Hansen	Roth
Buckley	Helms	Scott, William L.
Fannin	Hruska	Thurmond
Goldwater	Percy	Tower

NOT VOTING—15

Baker	Inouye	Saxbe
Cranston	Kennedy	Sparkman
Curtis	McClure	Stennis
Huddleston	Muskie	Taft
Humphrey	Nelson	Talmadge

So Mr. Jackson's amendment was agreed to.

Mr. TUNNEY. It would appear that even under the most optimal conditions, it will take in the nature of 60 days to implement the emergency measures called for in S. 1570 and S. 2589 once they were enacted. Given the normal difficulties to be expected in meshing these two complex pieces of legislation, and the possibilities of delays, what recourse will communities have to obtain relief if they are faced with imminent emergencies within this initial period?

Mr. JACKSON. Pending full implementation of the programs provided for in S. 1570 and S. 2589, the only direct programs now in effect are the current administration propane and middle distillate allocation programs and such measures as the individual States may have adopted. The President does, however, have authority under the Defense Production Act of 1950 to take a wide variety of emergency actions when fuel shortages affect national defense. It is for that reason that we must pass this legislation without delay. As the Senator undoubtedly knows, many State and local governments have already acted to minimize the extent of the emergency and its impact. Some are well along in this area. They deserve the timely support that early passage of S. 2589 would grant them.

Mr. TUNNEY. Is Federal approval required of all actions contemplated by this act that are undertaken by State and local agencies?

Mr. JACKSON. Federal approval is required only for those State programs developed in response to the requirements of **section 203(c)**.

Mr. TUNNEY. Will the State and local agencies set up under this act have any authority with respect to the establishment of priorities of fuel usage under the act? For example, if it is determined essential at the local level to divert certain fuel supplies to hospitals, or industries, or to some other vital use, does the flexibility exist under the bill to reallocate supplies to those priorities as called for within **section 203**, even though these priorities are not set forth specifically in **section 102** of the bill?

I ask these questions, because it will not be possible or practical on a case-by-case basis to seek determinations such as these when a difference of days or hours might spell severe hardship for many people.

Mr. JACKSON. On the question of the establishment of priorities, **section 203** requires that State and major metropolitan governments develop emergency energy conservation and contingency programs. It specifies that such plans shall include an established priority system. Thus, the question of relative priorities will be determined by State and local government, and the degree of flexibility will be for them to decide.

Mr. TUNNEY. I am somewhat troubled by the provision in **section 204(a)** which states:

The President shall require that fossil fuel fired electrical power plants now in the planning process be designed and constructed so as to have the capability of rapid conversion to burn coal.

Given the plentiful supply of coal in many regions of the country. I am aware of the desirability of such conversion. I would want to point out, however, that California is not primarily a coal-producing State, and fossil-fuel fired baseload electrical powerplants in California do not have the capacities at present to undergo such conversion.

Furthermore, combustion turbines would as I understand, find it technically unfeasible to make such turnovers to coal utilization.

But I want to stress another point, and that is namely the extremely adverse climatical and meteorological conditions which produce heavy and dangerous smog in parts of California. Coal burning would seriously aggravate such conditions and pose unwarranted threat to health. I, therefore, would hope that the application of any measures mandating use of coal take into consideration the peculiar environmental conditions that prevail in different regions of the country.

My question, Senator, is how do you construe the application of section 204(a) in this bill to the situation in California and other States with similar interests?

Mr. JACKSON. As concerns the design and construction of future stationary powerplants, it is imperative that we insure that hereafter we are not single-fuel dependent; that we have the flexibility to use such fuels as might be available to us. At present we are in a minority among industrial nations in not being able to do so. S. 2652, the coal conversion bill which Senator Randolph and I introduced on November 2, will address this need in detail. I welcome the Senator's interest in this area and would hope that he will offer his views and suggestions on the coal conversion bill for the committee's use in the consideration and markup of the bill.

The reference to future plants in this bill serves to provide notice of the direction in which we are moving in this area. As the Senator notes, it is obvious that coal in its natural state may not be used as fuel in a gas turbine. I doubt that anyone will try. Also, in building new plants with a coal capability, this capability must include the ability to do so within the requirements of the Clean Air Act.

Finally, I would think that there is a minimum plant size below which we would not wish to mandate convertibility. In drafting S. 2652, 100 million Btu per hour was taken as an initial minimum figure with which the committee could begin to work.

The Senator speaks of "all of our eggs in one basket." That is where we are now. That is a significant factor in the current emergency. It is precisely for that reason that we must act now to assure future flexibility.

Mr. CANNON. Mr. President, I send an amendment to the desk on behalf of my colleague, Senator Bible, and myself, and ask that it be stated.

The PRESIDING OFFICER (Mr. Eagleton). The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

The PRESIDING OFFICER. May we have order in the Senate. Will all Senators please retire to their seats and will members of the staff take seats at the rear of the Chamber. May we have quiet so that the reading of the amendment can be heard and comprehended.

The clerk will start to read the amendment afresh.

Mr. CANNON. Mr. President, this amendment is a very short one. I ask that the clerk read the amendment in full. It is completely self-explanatory.

The legislative clerk read as follows:

On page 18, line 9, add the following new sentence:

"In developing the Federal program and requirements for State programs the President shall insure that the provisions for specific energy conservation and

contingency measures are sufficiently flexible so that the desired reductions in energy consumption may be achieved with the minimum adverse impact on local, State and regional economies and employment levels."

Mr. CANNON. Mr. President, as the distinguished Senator from Washington so ably pointed out, our Nation is facing very difficult days due to the deepening energy crisis.

The Congress must take immediate, responsible steps to reduce petroleum consumption and insure the continuation of vital public services throughout this emergency.

This is what this bill, the National Emergency Petroleum Act of 1973, is all about, and I am pleased to join you as sponsor.

On behalf of myself and Senator Bible, I would like to clarify some points of the bill so that all Americans will know how they will be affected by this program.

As you know, the economies of many States, including my own State of Nevada, depend upon tourism. Without visitors such as the 25 million who visited last year from outside of our State, Nevada's economy would wither and eventually die.

We are a State in which our hotels and resorts are our principal industry accounting for a majority of our jobs and half of our tax base. Naturally, any special penalties directed at hotels would cause chaos in Nevada in terms of employment and necessary revenue for itself.

Section 203(b) of the bill includes provisions for limiting operating hours of commercial establishments.

For purposes of this bill, does the term "commercial establishments" include hotels and resorts?

Mr. JACKSON. I would interpret section 203(b) to include hotels and resorts as commercial establishments. These provisions pertaining to commercial establishments were proposed by the administration and accepted by the committee. While it is my understanding that the executive branch had looked to the merchantile sectors as the principal source of savings, the whole commercial area is included.

Mr. CANNON. What does this provision mean for hotels and resorts which must operate at all hours for the safety and convenience of their guests?

Mr. JACKSON. It would mean that hotels and resorts would be called upon to bear an equitable part of the burden that all Americans will be called upon to share. In their conservation of energy, I would assume that hotels and resorts would assure the safety of their guests and call upon them to accept minor inconveniences.

Mr. CANNON. In Nevada tourist areas there are many hotels in process of completion and wings to existing hotels which are not yet in operation. How would the requirements affect the plans of these new facilities to serve our visitors?

Mr. JACKSON. In the case of facilities which are in the process of completion or expansion, we have a situation which is analogous to the "new market entry" question which the Senate addressed in the passage of the Mandatory Allocation Act (S. 1570).

It is imperative that we strive to curtail energy consumption in order that we may live within our means in terms of available fuels. However, it is not the intent of the committee that in doing so we take any action that would needlessly impair the economic growth of any State or region.

Each State will be called upon to reduce its energy consumption by first 10 percent and then 25 percent. **[Sec. 203(b)(2).]** In my judgment it is the State who must determine the most equitable allocation of reduced totals between old and new businesses.

Mr. CANNON. If a State draws up a plan to meet the 25-percent reduction level without adopting each and every provision outlined in the bill, and the plan is accepted by the White House, would this be acceptable in terms of fulfilling the requirement of the bill?

So in other words the Governor can mold the energy conservation program in accordance with the specific needs of his State as he sees them in a manner which would be in the best interest of the State.

Mr. JACKSON. Yes, if the reduction level can be achieved by the State, the Federal Government would not impose its own alternative to a State's conservation program. The legislation recognizes that what may be unnecessary usage of energy in one State's economy, may be vital to another State's economy. Therefore, if the State can achieve a 25-percent reduction I would see no reason to restrict hours of operation or demand closure of sections of an industry vital to the economy of that State, such as Nevada's tourism industry.

Mr. CANNON. In order to clarify this provision of the bill, I would like to introduce, on behalf of myself and Senator Bible, an amendment to S. 2589 which would affirm the flexibility feature of the energy conservation program, so that the desired reduction in energy consumption may be achieved with the minimum adverse impact on local, State, and regional economies and employment levels. I have discussed this with the distinguished floor manager of the bill and it is my understanding that he finds the amendment acceptable.

Mr. JACKSON. Mr. President, I believe that this amendment, which the Senators from Nevada offer, helps to clarify the intent of the bill and I urge its adoption.

Mr. CANNON. Mr. President, the amendment is self-explanatory. It simply writes language into the bill to make sure that the Governors and the State plans have flexibility in meeting the desired reduction requirement so that it will have a minimum impact on the local industries and the local economies of a particular State and area involved.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JACKSON. Mr. President, I think the amendment is a helpful one. I have discussed the amendment with the ranking minority member, the Senator from Arizona (Mr. Fannin). I think the language should be helpful in the administration of the program. I have no objection to the amendment.

Mr. FANNIN. Mr. President, I have no objection to the amendment. I feel that the amendment will be helpful.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. MONDALE. Mr. President, I send an amendment to the desk on behalf of myself, the Senator from Missouri (Mr. Eagleton), the Senator from Minnesota (Mr. Humphrey), and the Senator from Wisconsin (Mr. Proxmire), and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 16, between lines 2 and 3, insert the following new subsection (c) and renumber all succeeding subsections accordingly:

(c) (1) The President is authorized and directed to convene negotiations with the Government of Canada, at the earliest possible date, to explore means to safeguard the national interests of the United States and Canada through agreements covering trade in petroleum and petroleum products between Canada and the United States, so as to encourage the maximum volume of such trade consistent with the interests of both nations.

(2) The President shall report to the Congress on an interim basis, on the progress of such negotiations as may be undertaken pursuant to this subsection, within forty-five days of passage of this Act.

(3) The President shall issue a final report to the Congress on the results of such negotiations as may be undertaken pursuant to this subsection, within ninety days of enactment of this Act. Such report shall include recommendations of such legislation as the President shall deem necessary to further the purposes of this Act.

Mr. MONDALE. Mr. President, this amendment is directed to the special problem of our relationships with Canada as they apply to the energy crisis.

The Canadians have reduced their exports of crude oil into the United States by about 300,000 barrels a day. And all of the States across the northern tier of our country—in the West, Northwest, Midwest, and the East—are going to be very seriously harmed by this development.

It is my opinion that our relationships with Canada are not nearly as good as they should be. This amendment is designed to authorize and direct our Government to begin immediate, emergency consultations with the Canadian Government for the development of a joint energy approach by means of which we could work together in trying to solve our problems.

Mr. PASTORE. Mr. President, this is an important amendment. We cannot hear the Senator's speech. Senators are not in their seats. Everyone is carrying on a conversation. I think that we ought to have order in the Senate.

The PRESIDING OFFICER. The Senator from Rhode Island is eminently correct. Will each Senator please take his seat. And may we have quiet on the floor of the Senate so that we can hear the Senator from Minnesota.

The Senator from Minnesota may proceed.

Mr. MONDALE. Mr. President, in the emphasis that we place in our debate on what the Mideast does in terms of exporting oil to the United States, we forget that we get $2\frac{1}{2}$ times more oil from Canada now than we do from the Mideast.

Canada is the biggest source of our imported oil at the present time. In light of the new policies of Canada which have resulted during the past 6 months in a nearly 23-percent cutback in the export of their oil to our country, and which could result in even a lower amount of exports from Canada to the United States, and the new export tax which they have added, I think that we should move immediately to try to

develop these high-level negotiations for the mutual benefit of both the United States and Canada.

Mr. President, the immediate crisis which has worsened our present energy emergency has been brought about by an unconscionable embargo of Arab oil to the United States and certain other nations.

Yet, the roots of this crisis lie much deeper. They lie in government policies planned more to increase the profits of the major oil companies than to promote the national interest. They lie in actions by these oil companies, which have revised their statistics and changed their predictions whenever it suited their corporate outlooks. And it lies in certain of our foreign policy dealings with nations friendly to the United States, nations which we often seem to have taken for granted.

There is no better case of this failure to conduct constructive energy consultation with our friends than recent relationships with the government of Canada.

With all the attention being given to our supply problems with the Middle East, far too little has been paid to our neighbors to the North. In fact, Canada exports more crude oil and refined products to this country than does any other single nation. In the second quarter of 1973, governmental figures show that almost 24 percent of our total imports of crude oil and refined oil products came from Canada. This was $2\frac{1}{2}$ times the amount we imported from the Middle East and 50 percent more than we imported from Venezuela.

And, in the area of crude oil alone, we imported almost 33 percent of our total foreign oil in the second quarter of this year from Canada.

Yet in spite of our reliance on Canada in oil and oil products, we have too often regarded Canada as a steady source of high levels of these vitally needed commodities. We have seemed to assume—until very recently—that Canadian production would inevitably serve American refineries, making Canada our most secure sources of foreign oil.

Recent events have indicated that these assumptions may no longer be true. The Mideast oil embargo is but the latest and most dramatic of a series of events which have brought about significant changes in Canadian oil policy, changes which have serious implications for our ability to meet domestic demand during this winter and beyond.

These changes may have profound implications on the energy supply situation in the United States, and in particular on the Middle Western and Eastern States.

We have long enjoyed a large and flourishing trade between our two countries in petroleum and finished petroleum products, and the States in the Midwest and East have used Canadian oil to compensate for their lack of proximity to large crude oil reserves within the United States.

We must recognize that this trade is important for both nations, and that Canadian crude plays a vital role in insuring adequate supplies of oil to large sections of our Nation. Yet, if the actions of the Canadian Government in recent months indicate the beginnings of a long-term policy, there is good reason to believe that the Midwest and the East may be denied access to all or significant parts of Canadian oil production or face the imposition of stiff export taxes, as Canada begins to retain domestic production for her own use and heavily tax that portion of such production which is exported.

I firmly believe that a wiser U.S. policy on the question of a pipeline from Prudhoe Bay in Alaska to the lower 48 States could have averted a good deal of the difficulty in which we now find ourselves. As I have stated before, I believe we have treated the Canadian Government rather poorly on this question, and the current friction on some aspects of energy policy between our two countries may result from the unwise past policies of our Government on the Canadian pipeline question.

A Canadian pipeline would have been and still would be an excellent vehicle for cooperation between two friendly governments, and would give the entire Nation access to the Alaskan oil we desperately need.

This is only one of the reasons why I have argued for a trans-Canadian alternative to the proposed Alaskan pipeline. However, it now appears that such an alternative may be some distance in the future.

The history of Canadian-American relations on this matter, however, redoubles the need for the initiation of intensive discussions with the Canadian Government to work out a policy on trade in oil and petroleum products between our countries. For if we do not deal wisely and swiftly with the changes in Canadian policy which have recently become evident, we once again run the risk—as occurred with the Alaskan pipeline—of damaging relations between two nations whose mutual interests are far stronger than the differences which may at times separate them.

And there can be little doubt that Canadian policy is changing.

This past March, the Canadian Government began a system of crude oil export controls and denied applications for increases in exports of Canadian crude oil.

This was the first of a number of actions taken in recent months.

In June, new Canadian controls halted the exports of heating oil and gasoline into the United States, under what was described as a "temporary" policy which could last up to 18 months.

And on September 13, the Canadian Government announced that it would impose immediately a 40-cents per barrel export tax on crude oil, to reflect rising prices on the world oil markets. In late October, that tax was suddenly raised from 40 cents to \$1.90 per barrel, thereby adding an additional \$2 million per day to the cost of the crude oil we import from Canada.

Early in September, the Government announced that it would seek price readjustments before granting export licenses for the month of October.

Most recently, Canada announced that it would reduce shipments of crude oil from a level of slightly over 1.1 million barrels per day in October to 1 million barrels in November. In contrast, last April Canadian exports to the United States reached a peak of almost 1.3 million barrels per day. And, the outlook for months beyond November is cloudy.

In short, in the period since April, Canada has reduced her exports to the United States by 300,000 barrels per day, or about 15 percent of the estimated daily shortage of crude oil we now face in this country.

Perhaps most significantly, however, in early September the Government of Canada also indicated that it was pursuing the construction of a pipeline to run from Ontario to Montreal to carry oil from Western Canadian oilfields into Eastern Canada. At present, Canada exports over 700,000 barrels per day of oil from Western fields into the Middle West and Eastern United States, and imports a significant amount into the Eastern part of Canada through pipelines originating in the State of Maine.

If an addition to the present pipelines linking Western Canada to Ontario were constructed, and if the supply of crude oil now being exported to the United States were stopped, it would come as a grave blow to the oil-poor regions in the Midwest and East which are now so heavily dependent on this Canadian oil.

The Canadian Government has gone through a difficult period in its own energy affairs, and many of the recent actions which she has taken have been in response to world events beyond her control.

Yet, unless we undertake intensive consultations immediately and sincerely, we will continue to be a prisoner of events rather than attempting to shape them constructively for the benefit of both our nations.

The United States and Canada are and have always been close allies and friends, sharing the longest common undefended border in the world.

We can and must preserve that friendship, to the mutual benefits of both nations. But we must also recognize that this friendship may be strained in the future, and that only continuing and high-level contacts between governments on the issue most pressing to both nations at this time—energy policy—will insure that policy will be made on the basis of mutual understanding, and not as a result of a failure of communication.

Mr. President, the bill as reported from the Interior Committee does contain a provision granting the President general authority to undertake negotiations and adjust or allocate imports of oil. [Sec. 202(b).]

The amendment I am proposing, along with Senators Eagleton, Humphrey, and Proxmire, will strengthen this provision. It directs the President, rather than simply giving him authority, to undertake emergency consultations with Canada to arrive at an oil policy which will benefit both nations during this period of difficulty.

In addition, my amendment would require the President to report back to the Congress on an integrim basis within 45 days, and on a final basis within 90 days, so that we can all know the progress which has been made in the course of these consultations.

Within the past 2 months, the White House Energy Adviser, John Love, has traveled to Canada for informal conversations on energy matters, and some new discussions may be underway. However, more is needed, and it is needed now. We desperately need high-level emergency consultations between our two Governments to assure that we work together in weathering the present emergency. If we do not, we could witness a continued deterioration in American-Canadian relations over energy, which could deprive us of the single largest source of oil we currently possess.

Hopefully, these consultations would be the first step in a continuing series of negotiations on energy matters between the United States and

Canada. I would hope, for example, that negotiations provided for under S. 1081 could begin at an early date to reach agreements through which oil from Alaska's North Slope can be routed through Canada to the lower 48 States. We do not yet know whether there will be enough proven reserves on privately held land to accommodate a second pipeline from the Arctic, but we do have information which indicates that Naval Petroleum Reserve No. 4—on Alaska's North Slope—may contain as much as 30 billion barrels of oil, or more than three times the proven reserves of the present North Slope fields. These resources should all be explored, to help maximize energy delivery to the United States from the North Slope. And, with approval of the trans-Alaska pipeline now near, we should give first priority to bringing additional Alaskan oil and gas through Canada to the lower 48 States.

These negotiations with Canada on energy matters will not be easy. In particular, they have not been made any easier by the treatment of the Canadian Government which we have sometimes engaged in on energy affairs in recent years. Yet these negotiations are essential, and must be undertaken as early as possible.

Mr. President, I believe that emergency consultations between our Government and the Government of Canada are vitally needed at this time. We must make progress in achieving the type of energy relations with our neighbor to the north which recognizes the need for cooperation in a time of difficulty. And, we must do this now, before a lasting deterioration of American-Canadian energy relations sets in and imperils a major source of our ever-expanding need for petroleum and petroleum products.

Mr. JAVITS. Mr. President, I have just asked the Secretary of State to do exactly that. And I believe that the minute he comes back to our country he will give the matter his early attention. I am very pleased that the Senator from Minnesota and other Senators have joined in this endeavor. I believe, considering the close relationships between our country and Canada that we should handle this matter in a most intimate way.

Mr. MONDALE. I yield to the Senator from Vermont.

Mr. AIKEN. What I was going to say is that if I read the news correctly, Canada has already asked us to meet with them and decide just what we want them to do with what oil and other material, gasoline and so forth, they have to export. I think Canada is in about the same boat that we are, not only on exports but on everything else. But I read somewhere yesterday that they have already asked us to meet with them and reach some understanding. I think that would be a good thing, and we should do it without delay.

Mr. MONDALE. Yes. This must be a top priority matter in the weeks ahead.

Mr. AIKEN. And that would also apply to gas?

Mr. MONDALE. Yes, it would. The common energy program.

Mr. MAGNUSON. That is the question I was going to ask.

In the Pacific Northwest we are dependent on that gas. That is why this amendment is particularly appropriate at this time in the gasfield, let alone the oil, which is another story. On gas, Canada has been threatening to raise the prices and void the contracts, and we in the Pacific Northwest are very dependent upon importation of gas from Canada.

Mr. MONDALE. I think it is very important for that reason also. The upper Midwest, all of these so-called Northern tier refineries, all the way east to Buffalo, N.Y., depend upon Canadian crude, and I think this amendment might tend to bring it up in priority.

Mr. JACKSON. Mr. President, the amendment in substantial form reiterates the language in connection with the consultation with the Canadians contained in the Alaska pipeline bill, which was signed into law today. I think it is a helpful amendment, and we are prepared to accept it.

Mr. MONDALE. Mr. President, I make certain technical modifications at this point, placing the amendment under **title V** and renumbering the sections; and, in the light of the suggestions of the Senator from Washington (Mr. Magnuson) to include natural gas in the coverage. I would not think that changes the substance of the amendment, and I modify the amendment accordingly.

The PRESIDING OFFICER. Will the Senator send his modifications to the desk?

Mr. MONDALE. Yes.

Mr. Mondale's amendment (No. 654), as modified, is as follows:

On page 16, between lines 2 and 3, insert the following new subsection (c) and renumber all succeeding subsections accordingly:

TITLE V—MISCELLANEOUS

Sec. 501. (a) The President is authorized and directed to convene consultations with the Government of Canada, at the earliest possible date, to explore means to safeguard the national interests of the United States and Canada through consultations covering trade in natural gas petroleum, and petroleum products between Canada and the United States, so as to encourage the maximum volume of such trade consistent with the interests of both nations.

(b) The President shall report to the Congress, on an interim basis, on the progress of such consultations as may be undertaken pursuant to this subsection, within forty-five days of passage of this Act.

(c) The President shall issue a final report to the Congress on the results of such consultations may be undertaken pursuant to this subsection, within ninety days of enactment of this Act. Such report shall include recommendations of such legislation as the President shall deem necessary to further the purposes of this Act.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. HANSEN. Mr. President, I do not speak against the amendment at all, but I hope we will all understand that the very thing the amendment calls for is already in progress.

As the Senator from New York has pointed out, he himself has talked with the Secretary of State, and he will shortly be going to Canada.

I am struck with the type of amendments that we are having presented to us. Yesterday we had one that would have permitted the President to move in and shut off exports. If a person does not know very much about the energy situation, it is very easy to think that that is a simplistic answer, to the problem. But the facts are that we are far more dependent upon imports than we are hurt by the exports that leave this country.

I just want to say that what the Senator calls for in this amendment has already been going on. It has been going on for several years. There is no question at all but that we will be doing that.

We can add more and more things, and I guess we could think of all sorts of amendments that would sound good to our constituents—and

I do not mean to imply that that is the motivation that prompts the Senator from Minnesota to put in this amendment—but the fact is that this is an ongoing program. The same language is in the Alaskan pipeline bill, despite the fact that it was not required there.

I would hope that we do not delude ourselves into thinking that up until the time that this amendment was proposed no one had thought about doing what it calls for.

I thank my colleague from Minnesota.

Mr. MONDALE. I certainly thank the Senator from Wyoming for that comment. In my opinion, having studied the matter, I think the amendment is needed. It goes beyond the language in the Alaskan pipeline bill by stressing the emergency nature of these consultations. If the Senator is correct, I say, "Glory hallelujah." I see no partisan advantage to be gained from this, but coming from a State that is terribly dependent on Canadian oil, in my judgment Congress would do well in supporting this amendment to give it the highest priority.

Mr. PASTORE. The real efficacy of this amendment lies in the fact that it is an expression of Congress. It shows a spirit of cooperation, and I think it would be very effective in making our friends in Canada realize that we in Congress are concerned; and even though negotiations have been going on, the fact still remains that we are a party to the welfare of the American people.

Therefore, I do not see any harm to it, and I think it fortifies whatever negotiations are going on.

I quite agree that we should not delude ourselves that this is an original idea. The Senator from Minnesota never suggested it was. All he said was that because of the situations and the need for this oil and the continued importations from Canada, we ought to go on with our negotiations.

Mr. HANSEN. Mr. President, if the Senator from Minnesota will yield further, just let me observe that I shall support the amendment. I am fully aware that my State of Wyoming ships a lot of crude to the Middle West that winds up in the States of Minnesota, Iowa, Illinois, Indiana, and all through there. I realize, too, that natural gas goes there from Oklahoma. It went there last winter. Despite the fact that they had to close schools in the State of Oklahoma, they got the gas up in the Great Lakes area, and I am proud of that. I would hope no one would think that because we happen to come from an energy sufficient area, we are immune to the concerns and welfare of people in other parts of the country.

I am pleased also to support the amendment because it is not often in these days that we find Congress so eager to admit that what the administration is doing is very much in the public interest.

Mr. MONDALE. I do not want to admit that, but I would like a vote on my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 654), as modified, of the Senator from Minnesota.

The amendment, as modified, was agreed to.

AMENDMENT NO. 666

Mr. BARTLETT. Mr. President, I call up my amendment No. 666, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. Bartlett's amendment No. (666) is as follows:

(f) (1) The President shall make appropriate adjustments (at any point in the distribution chain) in the maximum price which may be changed under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive order implementing the Economic Stabilization Act for any energy commodity or product or any product or commodity essential to the development, production, or delivery of any energy commodity as to which the Director of the Energy Policy Office certifies to the President that the supply of the commodity or product has been or will be reduced to unacceptably low levels as a result of any price control or freeze order or regulation and that alternative means for increasing the supply are not available.

(2) The President is directed to implement policies under this Act which are designed to encourage the domestic energy industry to produce to its full capabilities during periods of short supply to assure American consumers and industries with an adequate supply of fuel and energy resources at fair and reasonable prices.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I would like to modify the amendment as follows: On the second page, line 1—

The PRESIDING OFFICER. Is the Senator asking unanimous consent to modify his amendment?

Mr. BARTLETT. It is my understanding that I can modify my amendment.

The PRESIDING OFFICER. Not after the yeas and nays have been ordered.

Mr. BARTLETT. I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. I modify the amendment, on page 2, line 1, by striking the words "Director of the Energy Policy Office" and substituting the words "Secretary of the Interior."

At the bottom of page 2, below line 11, I add another subsection, or add a paragraph (3) to the subsection, which would read as follows:

(3) The provisions of this subsection shall not apply to natural gas.

The PRESIDING OFFICER. Will the Senator send his modifications to the desk?

Mr. BARTLETT. I think they have them, but I am happy to supply another set.

Mr. Bartlett's amendment No. 666 (as modified) is as follows:

On page 26 between lines 12 and 13 insert a new subsection as follows:

(f) (1) The President shall make appropriate adjustments (at any point in the distribution chain) in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive order implementing the Economic Stabilization Act for any energy commodity or product or any product or commodity essential to the development, production, or delivery of any energy commodity as to which the Secretary of the Interior certifies to the President that the supply of the commodity or product has been or will be reduced to unacceptably low levels as a result of any price control or freeze order or regulation and that alternative means for increasing the supply are not available.

(2) The President is directed to implement policies under this Act which are designed to encourage the domestic energy industry to produce to its full capabilities during periods of short supply to assure American consumers and industries with an adequate supply of fuel and energy resources at fair and reasonable prices.

(3) The provisions of this subsection shall not apply to natural gas.

Mr. BARTLETT. Mr. President, this amendment is very simple, and I would like to read it once again. It says:

(f) (1) The President shall make appropriate adjustments (at any point in the distribution chain) in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive order implementing the Economic Stabilization Act for any energy commodity or product or any product or commodity essential to the development, production, or delivery of any energy commodity as to which the Secretary of the Interior certifies to the President that the supply of the commodity or product has been or will be reduced to unacceptably low levels as a result of any price control or freeze order or regulation and that alternative means for increasing the supply are not available.

Mr. President, this is following a precedent that Congress followed this year in adding section 815 to the Agricultural Act. Section (b) of section 815 reads almost identical with this and provides that when the Secretary of Agriculture certifies there is an unacceptably low level of a certain commodity, that the price control or freeze order is responsible for that shortage, then the President shall make appropriate adjustments in the maximum price.

There has been much talk on the floor about the fact that this emergency bill has not given the usual emergency responsibilities to the President to make such adjustments. This amendment does not affect natural gas but would affect other fuels. It would also affect steel which is vital to the increase of production of supplies of oil, coal, and other fuels.

We have had testimony before the Committee on Interior and Insular Affairs that the energy crisis is much more severe than that of World War II. S. 2589, as reported from the Interior and Insular Affairs Committee, does no more than demonstrate again our reluctance to face the real problem; namely, how to stimulate the development of sufficient domestic energy supplies.

Again, Congress answer to balancing supply and demand seems to be only that "demand must be lowered." Certainly I agree that it should be lowered but I believe also that supplies must be increased.

It is a delusion for anyone to believe that S. 2589 will solve the energy supply problem. The people are suffering and will suffer even more because Congress refuses to take action to increase our energy supplies. I would hope that S. 2589 would become a package to deal with both the supply and demand aspects of our energy crisis. Instead, the people of the United States are being asked to sacrifice, with no assurance that their sacrifices will be temporary, and that, as soon as possible, increased supplies of energy will make further sacrifices unnecessary. Quite the contrary, this legislation virtually locks in shortages indefinitely by slowing the entire economy.

This Nation, in the past, has used its plentiful supplies of energy to expand greatly its productivity. This productivity, in turn, has brought about high employment, a high standard of living, good health care, improved environment, and expensive and numerous special programs—a record not matched by any nation.

Our shortage of energy means a reduction in productivity, a reduction in jobs, our standard of living, health care, environmental progress, and social reform.

We cannot increase productivity at prices that produce shortages of oil and gas, of steel, and other strategic commodities. The oil and gas industry is like a grocery store which has been selling items off the shelf at less than replacement prices.

Mr. President, there has been debate on this floor about the steel problem. With the revaluation of the dollar, we have seen the importation of cheap foreign steel stocks, and the exportation of our new chief American steel products exported to other nations. Also, we are witnessing an oil shortage as well as a shortage of many other products. Until the price of steel is placed at a proper level, we will not have ample production of raw steel, or investment in new rolling mills to produce new tubular goods so that we will have ample steel to be able to drill wells that are necessary.

I should like to point out that about 20 years ago the rate of drilling wells was twice what it is today. The demand today for oil products is double that of 20 years ago. So, to have the same rate of drilling compared to demand, we would have to increase four times our drilling rate of 1972.

I should also like to point out that the level of increased drilling this year is up over last year, due to increases in the price of oil. But it is only 13 percent. That is not enough to get the job done. In fact, that is just barely a start. Our first goal should be to at least double the number of wells drilled in 1972. That will not be enough, but at least that is the goal we should achieve right away. It will take much more in the way of tubular drilling pipe, and drilling rigs, in order to do it.

Mr. President, to my mind, the American people do not mind sacrificing to correct our energy shortage, but they do not want sacrifices guaranteed only to continue the shortage. Americans deserve a workable plan to increase supplies while we ration short supplies. To do less is to insult the intelligence of our citizens—and shortchange them in the process. Americans are willing to pay higher prices when it means getting something for this sacrifice.

For those who would be unable to pay higher prices, certainly this body could take steps to remedy that.

The program provided in S. 2589 promises the American people a rough ride in a stormy sea. The American people do not mind roughing it, but they want more than a rudderless ship without an engine. They do not want to continue with the storm as it develops into a hurricane. They want direction. They want to get somewhere. They do not want to sacrifice for naught.

S. 2589 is sacrifice with little hope.

Higher prices, of course, require a sacrifice, too, but promise more energy for the effort.

With forced rationing, controlled low prices must be controlled by force because the two are incompatible.

S. 2589, in its present form, may serve in some people's minds as a solution to the real problem of increasing supplies of energy, but in reality is a camouflage for no action.

This amendment would remedy that situation by giving the Secretary of the Interior the charge of certifying shortages that result from low prices, and then Congress is charging the President to make adjustments, so that the commodities of energy other than natural gas and related commodities, such as steel, can be increased where necessary.

We have a very recent example of one type of emergency action which can lead to increased production of commodities in short supply. In June of this year, when the Senate considered and passed the Agriculture and Consumer Protection Act of 1973, the Nation was experiencing severe shortages of meat, eggs, feed grains, and other agriculture commodities. In order to provide emergency machinery to stimulate production of commodities in short supply, which was lagging because of artificially low prices imposed by the Cost of Living Council, Congress adopted an amendment to the bill directing the President to make adjustments in the maximum price which could be charged for commodities under certain emergency conditions.

We must now take the same emergency action to stimulate production of energy commodities in short supply.

The amendment to S. 2589 which I offer will provide the same emergency measure adopted for agriculture products. This amendment will stimulate increased production of energy products—other than natural gas—and related products such as steel pipe—tubular goods and steel goods for the various energy industries—which are essential to the production and delivery of critically short energy products.

I have furnished each Senator with a copy of my amendment and a copy of the emergency agricultural provision for comparison. It is working well in the agriculture bill, and I trust that it will do so here.

I believe that the crisis we have in energy is even more far-reaching than that of agriculture, because it affects agriculture directly and it affects directly employment and all manufacturing. It affects every citizen in a very direct and intimate way.

Certainly, if our economy is going to keep moving and progressing and providing jobs and providing the fuel for social programs, for a better standard of living for better health care, then we will have to have sufficient energy.

Mr. HANSEN. Mr. President, I rise to support his amendment, because I am impressed with his logic, with the good commonsense that is inherent in the approach he takes.

The Senator from Oklahoma referred to the situation in the steel industry, the difficulty in trying to get certain kinds of material that are essential and critical to the oil industry.

This is the story that is going to be repeated time after time after time.

But the amendment that has been offered by the distinguished Senator from Oklahoma strikes at a more basic problem that must concern everyone in America today: Companies and individuals engaged in business are going to be guided and directed in what they do by the profit motive. If one has an opportunity to make a dime, he likely will become interested; and if he cannot, he will not be.

As the Senator from Oklahoma has pointed out, on many occasions because of the price we have imposed or the price limits that have been imposed in one fashion or another on the petroleum industry over the last 15 years or so, sufficient incentive has not been given that industry to go out and find the oil and gas that helps make this country run.

Earlier today, the Senator from Oklahoma and I, in the company of other Senators on the floor, were at the White House, where we witnessed the signing of the bill authorizing the construction of the Alaska pipeline. Present to witness that ceremony was the widow of Dr. William Pecora, a name that is well known in the oil industry. He

was the head and Director of the U.S. Geological Survey for many years; and later, early in the Nixon years, he became Under Secretary of the Interior. The President gave one of the pens he used in signing that historic document to Mrs. Pecora, because he wanted to focus attention on the fact that Dr. Pecora had been calling for an increase in the supply of petroleum and natural gas in this country.

Dr. Pecora, before his death, made one other utterance that I think is particularly timely to recall now. He was a distinguished scientist, one of the most revered men in the membership of the American Association of Petroleum Geologists, without any question. About a year and a half ago, he said that in his judgment there was probably as much as 100 times the amount of oil and gas we consumed in the entire United States in the year 1971 still to be found in the continental United States and on the continental shelves around this country.

Yet, what are we doing about supply? With the exception of the Alaska pipeline bill, we have not done anything to speak of about supply.

We talk in our myopic fashion, as we look at the energy crisis, only about spreading the misery around. We talk about seeing to it that everybody suffers a little bit and no one too much. I wish I could be confident that all of us will suffer only a little bit, but we are going to suffer more than a little bit because the cutoff in petroleum supplies is significant. It is about 17 percent of the total amount of oil and gas we use. When one stops to think that 78 percent of the energy we use in the United States comes from oil or gas, it can be understood by looking at the facts why the amendment proposed by the distinguished Senator from Oklahoma is so timely and so important right now. The amendment will do something about increasing supplies, and that is exactly what we need to do.

There are those who will say, "Gee, if the lid is taken off of prices and the price of oil, gas, and heating oil goes up, what will the poor people do?"

I do not minimize at all what higher prices will mean to Americans, but that is the best alternative we have now. There is one thing worse than higher prices and the ability to pay higher prices, and that is having higher prices and having no jobs. So far we have not done anything to increase the oil and natural gas in this country. If we can do that and do it quickly, and this amendment will help to do it quickly, we will have taken a major step to insure that there will be jobs for all Americans insofar as we are able to perform now in Congress to obtain that goal, and that is important.

Mr. President, you cannot buy very much if you have to make your purchases with welfare checks and food stamps. There is no doubt in my mind how the 78 or 80 million Americans who now have jobs would answer if they were asked, "Do you prefer higher prices for energy with reasonable assurances you will have a job this winter, or would you like to keep the prices of oil and petroleum products where they are now and run the risk that your plant may be one of the many plants in America that may be shut down because of insufficient supplies of energy this winter?"

I think it would be found that almost to a man Americans now gainfully employed would say, "We do not want higher prices, but if that is what we will have to do to guarantee our jobs, we will accept that."

That is the thrust of the Bartlett amendment. It is realistic. We can-

not snap our fingers and have this problem go away. It will take the investment of more dollars to drill deeper wells as a higher cost per foot to find the oil and gas to keep this country going.

I suspect this amendment will not carry because I know that the manager of the bill intends to speak against it. He will have his own words, and certainly I shall not attempt to speak for him on this or any other issue. But I observe that in all likelihood this amendment will be rejected, and if it is rejected and if some of the predictions of the Senator from Oklahoma, the Senator from Wyoming, economists, people in the oil industry and in the business community and others have made, come true, I hope we will put the blame where it belongs.

We do have a chance here now if we support the Bartlett amendment to do something about our supply; and if we choose to let this opportunity now escape our grasp and take no action to improve supply, then I say we have at least been forewarned.

Mr. BARTLETT. I would like to point out what this bill does. It calls on the President to give the people the bad news and tell them of the sacrifices they are going to have to make, to require them to cut back, to reduce their driving, to lower the thermostat, to advise them there will be greater unemployment in this country. My amendment does also give him the emergency powers to deal with the other side, the supply side of the supply-demand problem, and it gives him the opportunity to increase supplies, if certified by the Secretary of the Interior that the reduced supplies are occasioned by low prices, occasioned by price controls.

Members of this body and the other body have voted in recent years for increases in the price of milk because they felt in their minds that it was important that there be an increase. This matter of energy is much more important than just one commodity because we believe it is associated with virtually every part of our enterprise system in this country and every commodity.

It is most vital that we have the opportunity in this emergency bill to deal with the supply problem so that the President can take steps that will help relieve the shortage of supplies.

Mr. JOHNSON. In the amendment it is stated that the President "shall make appropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 or any subsequent Executive Order implementing the Economic Stabilization Act."

My question is: Under the mandatory allocation bill which either has been signed or will be signed in the next day or so, the President is charged with the duty of fixing prices on petroleum products, or crude.

Would the Senator's amendment also exempt the President from the mandatory duty of fixing prices under the mandatory allocation bill?

Mr. BARTLETT. This amendment would direct the President to adjust prices after the certification that there is a shortage resulting from low prices, that controlled prices caused the shortage and created an unacceptably low amount for a product, in the production, distribution, or marketing, or finding an emergency.

This directs the President and charges him with the responsibility of making adjustments in the price where needed in order to compensate for the low supplies that result from too low prices.

"I think the Senator from Louisiana will agree, with his knowledge in the energy industry in his own State, that the free market that has existed, for example, in natural gas, which this amendment does not affect, and he is cognizant of the fact that ample prices in a free market result in an increase in energy being available in Louisiana, Texas, Oklahoma, and other States.

Mr. JOHNSTON. My question does not go to whether the amendment is good or bad but whether it will accomplish what the Senator intends to do. Personally, I have sympathy for what the Senator is trying to do, but I wonder if the Senator has made provision for the mandatory allocation bill and the exemptions from it.

Mr. BARTLETT. An amendment is needed in this regard. I would certainly appreciate the counsel of my good friend from Louisiana, and I believe this will provide the vehicle for the President to make adjustments in the prices, as directed by the Secretary of the Interior.

I will yield for a question to the Senator from Arizona.

Mr. FANNIN. I thank the distinguished Senator from Oklahoma. I agree with him, and I am very pleased that he and the distinguished Senator from Wyoming have explained just exactly what is involved in his amendment and the benefits which could accrue from it.

I would like to give support to him and bring to the attention of the Senate the precarious position we are in today.

Mr. President, since early in November the Arab "oil weapon" has proven effective indeed, and the cracks in the armor of the oil consuming nations are widening. Even the other members of the European Economic Community opposed the pleas of the Dutch—who are now subject to an embargo of oil shipments from the Arabs—for a common market approach to the oil crisis in Europe. Energy saving programs are being put into effect in countries from France to the Philippines, and rationing in the United States appears no further away than the new year.

We have been told a hard winter lies ahead, and we can expect little support from our allies around the globe in terms of additional energy supplies. They just do not have any. Accordingly, it would appear that now is the time to turn our attentions and our resources to stimulating increases in our domestic supply of energy.

Mr. President, if we are going to ask the oil industry and the energy industry to produce under very adverse circumstances, often at great additional cost, I think we should provide them with the instruments to carry on these programs. I think that is what the Senator from Oklahoma is doing in his amendment by stating:

The President shall make appropriate adjustments . . . in the maximum price which may be charged . . . for any energy commodity or product or any product or commodity essential to the development, production, or delivery of any energy commodity . . .

This is something that has been done before. The Senator from Oklahoma gave several illustrations of precedents for this particular action.

I know I can cite an example from my own State of Arizona. We happen to grow long staple cotton in our State. At one time we were very much in short supply of cotton and cotton was needed very badly. It was at that time utilized for the manufacture of tires. It was so badly needed that the Federal Government guaranteed a price for

the commodity, and they were able to encourage plantings that otherwise never would have been made.

This is one illustration of what has been done, which proves the worth of the amendment of the Senator from Oklahoma. I know that he has several other examples he used to illustrate this point.

Mr. BARTLETT. Mr. President, I certainly thank the Senator from Arizona, and I am happy to have him provide for the record the other examples of the precedents for this particular approach to the problem. This approach, or a similar approach, was used during World War II, and then the Congress, in its wisdom, saw fit this summer to provide such a provision in the new Agriculture Act because of the shortages of various grains and food products. This is a provision of the present agricultural law that is in effect today. I think we have ample precedent for it.

I believe we would be very short-sighted if we did not provide responsibility for the President in dealing with the total problem of supply and demand. To saddle him only with the demand side to the exclusion of the supply side is not fair to the people of the Nation. I think they are entitled to know that when we make these sacrifices, a point is made with respect to supply, so that the situation will be as short-term as possible. Otherwise, the people will think only of the continuing and expanding shortages that now exist.

Mr. FANNIN. The Senator from Oklahoma realizes, as I do, that in the petroleum industry we have seen higher prices paid for products imported for the products we are producing in this country. In fact, both the Senator from Wyoming and the Senator from Oklahoma have illustrated that we are paying premium prices for imports. We might take imported natural gas as an illustration. We are paying five times as much for imported gas as we are allowing natural gas to be sold in interstate commerce. This is a policy that certainly is to the detriment of the Nation. It costs the country heavily.

I am not saying that the amendment applies to that particular problem, but certainly it is an illustration of what has happened, and it makes it all the more important that we adopt the amendment of the Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from Arizona. I appreciate his willingness to seek to provide more energy for the Nation.

I thank the Senator from Wyoming (Mr. Hansen) for the many times he has expressed the point of doing something to increase our supply of energy so that we will not find ourselves in this mess again. We must increase our supply of domestic energy both for the long term as well as for the short term.

Mr. President, I ask unanimous consent that my amendment be modified, following the suggestion of the Senator from Louisiana (Mr. Johnston), on page 6, after the word "act," to insert "or any other Federal law."

The PRESIDING OFFICER. Will the Senator send his modification to the desk, please?

Mr. BARTLETT. Yes. I have another amendment, on page 1, line 6, after the word "delivery," to add the words "or use."

This amendment was suggested by the staff of the Senator from West Virginia.

The PRESIDING OFFICER. Is there objection to making such modifications? The Chair hears none and the amendment is so modified.

Mr. BARTLETT. Finally, I wish to say that I believe this rounds out and provides for the other side of the coin with respect to S. 2589. It provides emergency powers for the President: For the exercise, where needed or necessary, to increase the supply by adjustment as well as to have emergency powers to decrease the demand by other controls. I believe that this would provide a balanced approach, so that the people, while they are sacrificing by turning their thermostats down and driving their cars on a stricter basis, will know that there is an opportunity to work ourselves out of this problem by providing ourselves with more energy.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the role.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. Cranston), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Mississippi (Mr. Stennis), the Senator from Massachusetts (Mr. Kennedy), are necessarily absent.

I further announce that the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Talmadge), the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), and the Senator from Massachusetts (Mr. Kennedy), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. Baker), the Senator from New Mexico (Mr. Domenici), the Senator from Idaho (Mr. McClure), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "yea."

The Senator from Arizona (Mr. Goldwater) is detained on official business.

The result was announced—yeas 35, nays 47, as follows:

[No. 489 Leg.]

YEAS—35

Bartlett
Bellmon
Bennett
Bentsen
Brock
Buckley
Byrd, Robert C.
Cook
Dole
Dominick
Eastland
Fannin

Gravel
Griffin
Gurney
Hansen
Hartke
Hatfield
Helms
Hruska
Johnston
Long
Nunn
Pearson

Percy
Proxmire
Randolph
Roth
Scott, William L.
Stevens
Taft
Thurmond
Tower
Welcker
Young

NAYS—47

Abourezk
Aiken
Bayh
Beall
Bible
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Church
Clark
Eagleton
Ervin

Fong
Hart
Haskell
Hathaway
Hollings
Hughes
Inouye
Jackson
Javits
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre

Metcalf
Mondale
Montoya
Moss
Packwood
Pastore
Pell
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Symington
Tunney
Williams

NOT VOTING—18

Allen
Baker
Cotton
Cranston
Curtis
Domenici

Fulbright
Goldwater
Huddleston
Humphrey
Kennedy
McClure

Muskie
Nelson
Saxbe
Sparkman
Stennis
Talmadge

So, Mr. Bartlett's amendment was rejected.

AMENDMENT NO. 660

Mr. STEVENSON. Mr. President, I call up my amendment No. 660, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Hughes). The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENSON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I make some technical modifications in the amendment and send them to the desk.

The PRESIDING OFFICER (Mr. Hughes). The amendment is so modified.

The modified amendment is as follows:

Add a new section to title V as follows:

"SEC. 308. National Energy Emergency Disaster Assistance Plan. (a) Where, in the determination of the President, the national energy emergency is, or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of State, local governments, and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the Governor of any State in which such a severe emergency exists or threatens to exist certifies the need for Federal disaster assistance under the Disaster Relief Act of 1970, as amended, and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship or suffering resulting from such emergency, the President may designate one or more major disaster areas under the terms of the Disaster Relief Act of 1970, as amended.

"(b) The President shall require the Federal Disaster Assistance Administration to promulgate, not later than 15 days after the date of enactment of this

act, a nationwide contingency plan for insuring the availability of federal disaster assistance to families, individuals and communities that qualify for such assistance as a result of the nationwide energy emergency. Such plan shall include, but not be limited to, specific procedures for;

"(1) coordinating activities of all federal, state and local disaster relief and civil defense officials for the purpose of establishing neighborhood centers to provide emergency heat, food and shelter for individuals and families who, as a result of the energy emergency, require such assistance;

"(2) distribution of surplus food commodities by the Secretary of Agriculture pursuant to the Food Stamp Act of 1964 and the provisions of Section 203 of the Disaster Relief Act of 1970, when the President determines that, as a result of unemployment caused by industrial or commercial energy shortages, households are unable to purchase adequate amounts of nutritious foods; and

"(3) Provision of the necessary emergency personnel, equipment, supplies, facilities and other resources in accordance with the authority granted under the Disaster Relief Act of 1970, necessary to help in alleviating the damage, loss, hardship or suffering caused by the national energy emergency."

On Page 29, Line 22, delete "308" between "Sec. and National" and add "309."

On Page 30, Line 21, delete "309" between "Sec. and Administrative" and add "310."

On Page 31, Line 20, delete "312" between "and" and before "of this Act" and add "313."

On page 31, Line 21, delete "310" between "Sec. and Judicial" and add "311."

On page 33, Line 3, delete "311" between "Sec. and Materials" and add "312."

On Page 33, Line 9, delete "312" between "Sec. and Grants" and add "313."

On page 33, line 18, delete "313" between "Sec. and Study" and add "314."

On page 34, line 3, delete "314" between "Sec. and Authorizations" and add "315".

On page 34, line 6, delete "315" between "Sec. and Separability" and add "316".

Mr. STEVENSON. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENSON. Mr. President, the National Energy Emergency Act of 1973 is a tribute to the vision and work of the entire Interior Committee and especially its chairman, the distinguished Senator from Washington. This bill is clear proof of the Senate's ability to respond positively and speedily at a time of national crisis.

Our best hope this winter lies in energy conservation and an equitable allocation of available fuel supplies.

The Nation is now facing a 10- to 17-percent petroleum deficit this winter. That means cold homes, unemployed workers, and severe economic dislocations.

They cannot now be prevented. They can be minimized through energy conservation as S. 2589 proposes.

But S. 2589 would not be complete without a provision to alleviate the human suffering which will probably result in some areas this winter from energy shortages.

This is a disagreeable prospect, and a hard one to face in a nation accustomed to so much abundance, but it is far better now to face the prospect of human suffering, when we can do something about it, than later when we cannot.

This amendment requires the Federal Disaster Assistance Administration to develop comprehensive disaster relief programs for those families, individuals, and communities denied adequate food and shelter because of fuel shortages. When it is 10 degrees outside and homes are out of fuel oil, it will be too late to start planning for neighborhood centers where all can be assured of a warm place to eat and sleep. When factories have been closed for several months, it will be too late to start planning how the unemployed are going to feed their families.

For every million barrels of petroleum products per day the Nation in short, about 1¼ million people will be put out of work. When the last Mideast oil tanker reaches our shores in the coming weeks we will be faced with a 3-million-barrel-per-day shortage. That would mean a doubling of the unemployment rate to over 9 percent, and a 7-percent reduction in gross national product.

These figures are national averages. Hardships do not fall evenly on all sections of the country or on all individuals. A shortage of 3 million barrels per day could drive unemployment among minority workers as high as 30 or 40 percent. Human suffering, severe economic dislocations, even social disorders are threatened.

If conservation efforts, including the most essential, gasoline rationing, are successful, the assistance offered by this amendment will not be needed. But nothing will be lost by it. And it is more likely that the assistance will be needed. At least, we cannot take the risk of being unprepared to relieve human suffering. If the energy crisis teaches us anything—it is the need for advance planning.

Now is the time to develop contingency plans for the human suffering that may lie ahead. The administration has recently disbanded the official disaster assistance agency—the Office of Emergency Preparedness. Thus, this amendment requires that the new Disaster Assistance Administration in the Department of Housing and Urban Development promulgate within 15 days after enactment, a comprehensive contingency plan for coordinating Federal, State and local disaster relief efforts. The amendment gives the President the authority to designate as disaster areas those areas stricken by energy shortages. Such areas would then be eligible for Federal assistance under the Disaster Relief Act. The required contingency plan is intended to assure that the assistance actually reaches the eligible recipients.

The Nation is faced with a national energy emergency of unprecedented proportions. Conservation and allocation of fuel provide the tools to control available supply. This amendment offers relief to those who will suffer even with energy conservation proposed by S. 2589.

The conservation and allocation of fuel provide the tools to control available supply. This amendment will offer relief to those who will suffer even with the energy conservation as proposed by S. 2589 and with the allocation programs already approved by Congress.

Mr. President, I urge adoption of my amendment.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Nunn). The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the committee will agree to this amendment. We believe it is needed and is a forward step in case the unexpected or the worst happens. If there are disaster areas caused by the energy crisis, then we believe that this amendment is appropriate and a needed response to that need.

We congratulate the distinguished Senator from Illinois for offering this amendment.

Mr. LONG. Mr. President, might, I ask, if the leadership and the manager of the bill were to take it, that we vacate the order for the yeas and nays?

Mr. STEVENSON. I was about to do that. If there is no objection to this amendment, Mr. President, and I hear none, I would ask unanimous consent that the order for the yeas and nays on this amendment be vacated and that we agree to the amendment.

The PRESIDING OFFICER. Without objection, the yeas and nays are vacated.

Mr. JOHNSTON. No, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on my Amendment No. 660.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (Mr. Stevenson), No. 660.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from California (Mr. Cranston), the Senator from Arkansas (Mr. Fulbright), the Senator from Michigan (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Georgia (Mr. Talmadge), the Senator from Maine (Mr. Muskie), the Senator from Minnesota (Mr. Humphrey), and the Senator from Kentucky (Mr. Huddleston) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Massachusetts (Mr. Kennedy), and the Senator from Georgia (Mr. Talmadge) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. Baker), the Senator from New Mexico (Mr. Domenici), the Senator from Idaho (Mr. McClure) and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "nay."

The result was announced—yeas 62, nays 17, as follows :

[No. 490 Leg.]

YEAS—62

Abourezk	Gurney	Nunn
Aiken	Hartke	Packwood
Bayh	Haskell	Pastore
Beall	Hatfield	Pearson
Bentsen	Hathaway	Pell
Bible	Hollings	Percy
Biden	Hughes	Proxmire
Brooke	Inouye	Randolph
Burdick	Jackson	Ribicoff
Byrd, Harry F., Jr.	Javits	Schweiker
Byrd, Robert C.	Johnston	Scott, Hugh
Cannon	Long	Stafford
Case	Magnuson	Stevens
Chiles	Mansfield	Stevenson
Church	Mathias	Symington
Clark	McClellan	Taft
Dole	McGee	Tunney
Eagleton	McIntyre	Weicker
Eastland	Metcalf	Williams
Ervin	Montoya	Young
Gravel	Moss	

NAYS—17

Bartlett	Dominick	Hruska
Bellmon	Fannin	Roth
Bennett	Fong	Scott, William L.
Brock	Griffin	Thurmond
Buckley	Hansen	Tower
Cook	Helms	

NOT VOTING—21

Allen	Goldwater	Mondale
Baker	Hart	Muskie
Cotton	Huddleston	Nelson
Cranston	Humphrey	Saxbe
Curtis	Kennedy	Sparkman
Domenici	McClure	Stennis
Fulbright	McGovern	Talmadge

The PRESIDING OFFICER. The bill is open to further amendment. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I send to the desk two amendments of a technical and conforming nature and I ask for the immediate consideration of the amendments. They were unanimously adopted on November 14 by the Committee on Public Works. I understand they are acceptable to the manager of the bill.

The PRESIDING OFFICER. Does the Senator ask that the amendments be considered en bloc?

Mr. BUCKLEY. I do.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows :

On page 23, line 10, delete "variance" and insert "suspension".

On page 19, strike the second sentence of Section 204 and insert in lieu thereof the following :

"Any installation so converted may be permitted to continue to use such fuel for more than one year, subject to the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.)"

Mr. BUCKLEY. Mr. President, one amendment changes the word "variance" to "suspension" on line 10, page 23 when referring to any departure from any emission standard in effect under existing State air quality implementation plans. "Suspension" is a term of art under the Clean Air Act; "variances" is not.

The second amendment conforms the language of the bill to the intention of the committee in its deliberation of **section 204(a)** of the pending bill. By an inadvertence, the word "will" was printed as it appeared in Committee Print No. 4 of S. 2589 before we agreed in the final markup to make discretionary, rather than mandatory, the authority of the President under **section 204(a)** to allow conversions to alternative fuels to continue for more than 1 year. The intention of the committee is made clear on page 20 of the report of the committee on S. 2589, which contains the section-by-section analysis of **204(a)**, and states that the conversion may be allowed for a period longer than 1 year, subject, as provided, to the provisions of the Clean Air Act, as amended.

Mr. JOHNSTON. Mr. President, the committee has no objection to these conforming amendments. They are required technically. I urge the adoption of the amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to.

Mr. ROBERT C. BYRD. Mr. President, I would hope that the two respective cloakrooms would put out a notice to Senators that at the conclusion of the next rollcall vote the leadership will attempt to propose an agreement with respect to the pending bill, and Senators should be on notice in that regard.

Mr. PASTORE. Could we have a hint on what the agreement is all about?

Mr. ROBERT C. BYRD. Yes; does the Senator wish me to state what my proposal will be?

Mr. PASTORE. Yes.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I have counted 23 amendments at the desk. The 23 amendments would be proposed by 14 Senators.

I, or the majority leader, would be prepared to propound an agreement as follows: That at the hour of 2 p.m. next Tuesday a rollcall vote occur on the pending bill and that no amendments that have not been voted on prior to that time be in order. That is it.

Mr. DOLE. Mr. President, reserving the right to object, if an amendment would be—

The PRESIDING OFFICER. The request has not been made. The Chair does not understand the request to have been made.

Mr. ROBERT C. BYRD. No; no request has been made.

It would mean any Senator who had an amendment at that hour would not be allowed to propose it. Heretofore amendments have been in order in agreements of almost similar nature, and could be voted on, but without any debate thereon; but this agreement would rule out any amendment being offered at that time.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PASTORE. But we are coming in early Monday.

Mr. ROBERT C. BYRD. Yes.

Mr. PASTORE. And if there are a number of amendments, we could stay late Monday.

Mr. ROBERT C. BYRD. Yes.

Mr. PASTORE. In other words, comfortably we could conclude by 2 o'clock.

Mr. ROBERT C. BYRD. Conclude by 2 o'clock on Tuesday.

Mr. PASTORE. That is what I wanted to know.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. DOLE. As I understand the Senator from Rhode Island and the Senator from West Virginia, a number of Senators are working on what we think are important amendments. They may be accepted, they may be withdrawn, but every effort will be made at least to work on those amendments.

Mr. ROBERT C. BYRD. Yes. The Senate could continue to work today. It could continue to work on Monday. Senators could call up their amendments as they desire. There would be no time limitation on any amendment. In other words, Senators could call up amendments, and if Senators felt so disposed, they could discuss any one amendment from now until the hour of 2 o'clock on Tuesday afternoon. We hope that does not occur, but the only agreement that seems possible at this time is one that would provide for a definite hour at which to vote on final passage and would provide that when that hour arrives, no amendment would be in order other than the amendment that was pending at that time.

A Senator has just made a comment, and I ask him, does he mean to say that if a Senator called up an amendment at 4 o'clock on Monday afternoon and the hour of 2 o'clock on Tuesday arrived, the Senate would vote on the bill and not on the Senator's amendment pending at that time? I have never known of such an agreement.

The Senate could agree by unanimous consent on almost anything, however. I would hope the cloakrooms would send an urgent message to all Senators so that they could enter into discussion of an agreement after the next rollcall vote.

Mr. HANSEN. Mr. President, will the distinguished majority whip yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HANSEN. I would like to say, as distinguished majority whip has indicated, those were the terms that were tentatively agreed upon by some members of the Interior and Insular Affairs Committee. It may seem that this is a pretty harsh rule to lay down, but I would observe that the Interior and Insular Affairs Committee worked long and hard on this bill. Countless amendments could be proposed. It was indicated that if we could bring this bill to a vote, those would be the terms under which it could be accomplished.

I think I have accurately interpreted what was agreed to by the Interior and Insular Affairs Committee.

Mr. ROBERT C. BYRD. Mr. President, I would ask the acting floor manager if he will respond.

Mr. JOHNSTON. Mr. President, that is right. The reason for this is not that we do not want all pending amendments to be considered, but rather, there are certain matters—for example, deregulation of gas, regulation of intrastate gas, and other matters—that are of such an acute nature to some Members of the Senate that they simply could not be allowed to be voted on without extended debate. We do not expect those matters to be brought up, but the only way these Senators felt they could be protected was, frankly, to have the ability to have extended debate on those matters if they were brought up.

We believe that there is at least tentative agreement that what might be called incendiary matters will not be brought up.

Mr. CHILES. Mr. President, will the acting majority leader yield?

Mr. ROBERT C. BYRD. If the Senator from Illinois will allow me, I yield.

Mr. CHILES. As I understand it, the agreement was to allow an automatic vote as of 2 o'clock Tuesday. As I understand it further, if some Senator wanted to start a filibuster, if the agreement was entered into, he could do so and we would automatically vote at 2 o'clock Tuesday and none of the amendments at the desk would be considered.

Mr. ROBERT C. BYRD. That is correct.

Mr. CHILES. I think the Senator might save time, if he is going to send a message to Senators, because I will object to the Senator's proposed unanimous-consent agreement.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PASTORE. Inasmuch as we are not going to have these incendiary amendments the Senator mentioned, could we not have a limitation of debate on the amendments? What is wrong with that? There is not an amendment up at the desk that one could not explain in 15 minutes. I suppose we are all intelligent enough to understand the English language. It strikes me that there is no cause that cannot be explained in 15 or 20 minutes.

Mr. JOHNSTON. Mr. President, if the Senator will yield, that possibility has been discussed and that proposal would be objected to by some of those Senators who feel that they must protect some of the issues referred to.

Mr. ROBERT C. BYRD. Mr. President, I think Senators have some idea of what the problem is. After the next rollcall, the majority leader, if he is on the floor, can seek unanimous consent for an agreement of some kind; and if he is not here, I will do so.

AMENDMENT NO. 661

Mr. STEVENSON. Mr. President, I call up my amendment No. 661.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

On page 26, after line 12, insert the following new paragraph:

(f) Order production, as soon as practical and in any event within one year after the date of enactment of this Act, from all Federal oil and gas leases that,

on November 1, 1973, were classified as producing, shut-in by the United States Geological Survey. Failure by the lessee to produce oil or gas within one year of the date of enactment of this Act shall result in forfeiture of such acreage classified producing, shut-in: *Provided*, That such forfeiture shall not occur if the Secretary of the Interior, on the basis of his independent evaluation of the acreage's reserves, finds in writing that production from such acreage would result in economic costs exceeding economic benefits to the Nation.

Mr. STEVENSON. Mr. President, I make technical modifications in the amendment and I send them to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The Senator will send the modification to the desk.

The amendment as modified is as follows:

Add a new section to Title V as follows:

"SEC. 504. The President shall order production, as soon as practical and in any event within one year after the date of enactment of this Act, from all Federal oil and gas leases that, on November 1, 1973, were classified as producing, shut-in by the United States Geological Survey. Failure by the lessee to produce oil or gas within one year of the date of enactment of this Act shall result in forfeiture of such acreage classified producing, shut-in: *Provided*, That such forfeiture shall not occur if the Secretary of the Interior, on the basis of his independent evaluation of the acreage's reserves, finds in writing that production from such acreage would result in economic costs exceeding economic benefits to the Nation."

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. STEVENSON. Mr. President, 838,000 acres on Federal lands that have been leased for gas and oil production are currently classified as "producing but shut-in." This figure represents over 10 percent of all presently leased Federal lands on the outer continental shelf.

These are lands which were leased by the Federal Government with the expectation that they would be put into oil and gas production, but they have not been. They are capable of commercial production, but they are not producing.

Testimony before the Antitrust and Monopoly Subcommittee and the Commerce Committee indicates that the major oil companies are speculating in the nonproduction of these precious public resources, holding back production in anticipation of higher prices. These oil companies have performed the bare minimum required to retain the leases under current Department of the Interior guidelines. They recognize that the oil and gas under these lands will be more valuable next year than this year. Their self-interest in withholding production from these public lands is contrary to the public interest in full production in these times of scarce supply.

This amendment would require lessees of Federal oil and gas rights to put existing wells into production within 1 year unless the Secretary of the Interior finds in writing that the out-of-pocket costs are not justified by the economic benefits of production to the Nation.

The Nation is in the midst of an oil crisis and it is necessary to put every available resource into production. If a lessee of Federal oil and gas rights is unwilling to put an existing producible well into production, then he should be required to relinquish his rights in this public resource. That is what this amendment would do. It would require production or forfeiture. That has been the intention of the Congress, but it is not being carried out.

Mr. President, the lights are going dim, homes are growing cold, factories are closing, but 1,000 commercial wells in the Gulf of Mexico alone, all on public property, are shut in. This amendment would put them in production.

I urge its adoption.

Mr. HANSEN. Mr. President, I would like, first of all, to read from part I of the hearings before the Committee on Interior and Insular Affairs, U.S. Senate, pursuant to Senate Resolution 45, the National Fuels and Energy Policy Study on S. 2589. This particular document is dated November 8, 1973.

The chairman recognized Secretary Wakefield who in response to a question proposed by the junior Senator from Wyoming replied as follows:

Senator Hansen, I first came to Washington in February 1970 with the Federal Power Commission and the very first day I was on the job, I was in a hearing in which accusations were made that the industry was shutting-in natural gas supplies to raise the price of natural gas.

It is now almost 4 years later and I have yet to hear any evidence pointing to a specific instance where that was happening. It is always this broad innuendo that there are a number of gas wells shut-in. We know how many there are, we keep records in the Geological Survey, but in every instance, we have the reason and it is usually because of problems with the well or inadequate pipeline facilities.

But, I would hope that if there are any instances where gas is deliberately being withheld from the market for the purposes of withholding shortages or driving up prices if we can see some specific evidence of that so it would be useful.

Mr. President, the fact is that in anticipation of the consideration by the Senate of the Stevenson amendment, earlier this forenoon we called the U.S. Geological Survey to get brought up to date in order better to understand what the facts are with respect to this amendment.

If, as Secretary Wakefield observed this month, this was a bugaboo or a specter that really did not exist or if there was indeed some reason to be concerned with the charges that have been made and which now have been formalized by the amendment offered by the distinguished Senator from Illinois, the U.S. Geological Survey, that arm of the Federal Government that ought to know most about what the facts are with respect to the charges that have been made concerning shut-in wells, gives this information:

Regarding onshore leases—

And that of course would refer to inland oil wells—

a lot of stripper wells are coming back into production. And this amendment would frustrate what is already coming to pass under the operation of the marketplace.

I am sure that the distinguished Senator from Illinois knows that there are roughly about 350,000 stripper wells in the United States. Each well in time becomes a stripper well as its production drops. As the cost of pumping fluctuates or increases—and it has not fluctuated downward; it has been on a steady increase—the time comes with every well when the cost of raising the oil equals the value of the oil. And when that time comes about, the well is stopped from further production. It is not economic to continue it in operation when it does not make a penny for them. So any operator is going to close down a well when that time comes. As the marketplace has responded to the demand pull—and that is what has been raising prices, it is the fact

that more people want more oil than has been available—prices have gone up as a consequence.

This is, in effect, a resolution in support of stripper wells being continued in operation longer than it would take for the remainder to be pumped out, because it would become unprofitable to pump the oil out of the ground.

I point out, parenthetically, that stripper wells are a significant part of the total oil resources in the United States. It has been estimated by some to constitute one-tenth of our total reserves. If our total reserves are in the amount of, say, 40 billion barrels of oil, then we are talking about, with respect to stripper wells, some 4 billion barrels of oil. So stripper wells are not insignificant. Yet it has been made profitable, over the months, to operate stripper wells whose operation otherwise would have been stopped due to the price not being increased.

One of the men at the Geological Survey told us, with regard to offshore wells, that most of them that can produce, are producing. The few that are not producing are not doing so because of several factors, especially a shortage of materials.

I read earlier today a letter that I read yesterday from an oil company that is unable to buy steel casing because of the steel casing being subjected, as it is, to the orders and regulations promulgated by the Cost of Living Council. It was found that they can put their steelmaking materials to more profitable advantage in producing products other than oil steel casing. As a consequence, despite the fact that new oil well casing, when it was available, generally was selling for about \$2.80 a foot, used casing, 5½ inches in diameter, is selling for \$4.40 a foot now.

So this is a basic reason, I say to the Senator from Illinois (Mr. Stevenson), why some of the wells are shut-in wells. There is not enough casing and tubing material to get the oil from the wells to the onshore refineries.

There is a shortage of materials to build platforms. It takes a lot of steel to do the job that is required to explore the Outer Continental Shelf or the Continental Shelf when drilling is being done in waters of the Gulf of Mexico or wherever the building is taking place.

There is a shortage of drilling rigs. I have already mentioned the fact that drilling pipe is in short supply. Pipelines connecting the rigs with onshore refineries have not yet been built in many cases.

Because of the Arab oil cutoff, oil companies are operating to the maximum extent possible to get into production. They realize full well that we are in short supply, and they know full well that, sooner or later, oil will be very greatly needed for the economy.

Thus this amendment, I think, would cause slowdowns and uncertainties in our already all-out effort by the energy industry to try to meet this crisis and this challenge which is so much in the mind of every American.

Third, and a very important point, the amendment would constitute a taking of private property. This could well result in Federal liability to the lessees to the extent of billions of dollars, while frustrating the expansion of the oil supply.

Furthermore, this amendment creates the impression that there are many unnecessarily shut-in wells. That is not true. The number of shut-in wells, according to the information we have from the U.S. Geological

Survey, is less than 10 percent of all wells. In nearly every case that has been examined into, there are justifiable reasons, such as those I have already alluded to earlier, why that is the case.

I feel that the facts we have learned from the U.S. Geological Survey should be buttressed with hearings. If a case can be demonstrated, if proof can be presented to substantiate the allegations made by the distinguished Senator from Illinois, I think the people most concerned ought to have an opportunity to be heard in hearings before committees of Congress, the Senate Committee on Interior and Insular Affairs on this side, and I would welcome those hearings if there is any question in the minds of Senators that this is the case.

So before we take a step like this, before we blacken the name of the industry to the extent that this amendment would, I think at the very least we ought to hold hearings. From the evidence and the information we have obtained from the U.S. Geological Survey, there are good and sufficient reasons in nearly every instance to explain why a well is shut-in, and I would hope we would take the time to learn what the facts are before we agree to an amendment such as this.

There are also, as Senators know, ecological considerations that have hampered the ability of the industry to respond as it otherwise would like to. I spoke earlier this morning about the Belle Fourche pipeline in the Western United States, the pipeline that goes into North and South Dakota, as I understand, and into Wyoming—it may not yet be into North Dakota, though I think it is—where, in order to tie into the pipeline, it is necessary to cross the national grasslands area up there. Before that pipeline can be built, the owners of the pipeline have been informed that it will be necessary to file an environmental impact statement because the proposed route of that line would cross about 20 miles of national grasslands.

I note that the distinguished Senator from North Dakota (Mr. Burdick) is present, and I am sure he has heard about this situation also.

The fact is that in order to cross that national grassland, it will require a delay that will make it at least next summer before they can even get the environmental impact statement made. Because of that fact, I would hope that Senators will understand that if you look into the specific examples, invariably you will find reasons why this amendment should not be acted upon and approved at this time.

Additionally, in the case of the outer continental shelf, should the leaseholder hold onto his lease without attempting to develop it, he forfeits it automatically under a present statutory requirement of the Outer Continental Shelf Act. It would seem to me, Mr. President, that when you consider the cost, the bonuses that have been paid by leaseholders for these leases, we could be assured that no one who has a lease out there is going to be willing, after putting out the millions of dollars required to get a lease in the first place and to develop that lease, to keep his well shut in one day longer than is absolutely necessary.

THE PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

MR. STEVENSON. Mr. President, I ask unanimous consent to modify my amendment on page 2, line 3, after "would". by inserting "be impossible because of shortages of essential materials or." I send that modification to the desk.

The PRESIDING OFFICER. There is no page 2 of the amendment now. Mr. STEVENSON. It is a printed amendment.

The PRESIDING OFFICER. Page 2 purports to be an explanation.

Mr. STEVENSON. No, it is a printed amendment, Mr. President.

The PRESIDING OFFICER. The printed amendment is not being considered. We have been considering the modification, which was a total reprint.

Mr. STEVENSON. Well, whatever we are considering, Mr. President, I ask that the modification apply to it.

Mr. HANSEN. Mr. President, is this a unanimous-consent request?

The PRESIDING OFFICER. The Senator is modifying his amendment, which he has a right to do.

Mr. HANSEN. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HANSEN. Then it cannot be modified without unanimous consent; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HANSEN. Then I object.

Mr. STEVENSON. Mr. President, I think I have the floor.

Mr. HANSEN. Yes, the Senator does.

Mr. STEVENSON. I was trying to be helpful to the distinguished Senator from Wyoming. He mentioned that it might be impossible in some cases to put wells into production because of shortages of essential materials. I was simply modifying the amendment to make it clear that such wells would not have to go into production, if there were shortages of essential materials. I think even without that modification the Department of Interior would have sufficient authority to permit the continued shutting in of wells for all such legitimate reasons. It surprises me that if that is one of the concerns of the Senator from Wyoming, he would not be the first to support the modification.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield to the Senator from Wyoming.

Mr. HANSEN. The reason I objected, Mr. President, was to demonstrate that the amendment was not thought through sufficiently. There seems to be an unawareness of some of the facts that are very relevant to this amendment, and when the Senator was not sure which amendment was before the body, it further demonstrated the very fact that I was trying to bring out. I gathered that perhaps the Senator was not quite sure which specific amendment he was talking about, and for us to vote on an amendment that even he is not certain which one he is talking about seems to me to be the very essence of irresponsibility.

I say that in all sincerity, because I do not object at all to his concern, but what I am concerned about is that we have had all sorts of amendments that propose to address the energy crisis in America. We even had one to shut off all exports. I have obtained some information on exports, and when you look at the figures you will see that is the last thing America wants to do. If we literally want to cut our throats, let us shut off all exports, because if we do that, the countries exporting to us would cut off their exports to the United States, and I can assure you we would wind up in a very critical situation, far more serious than now.

So I say to my good friend from Illinois that I am perfectly willing that we look at the facts. I would be pleased to have hearings scheduled, to hear from the industry and to develop what the facts are,

but I do not think Senators have the facts before them now, and until we are better informed, it would seem to me to be very irresponsible to adopt an amendment that is as poorly understood as I believe this one is.

Mr. STEVENSON. Mr. President, I believe I have the floor.

First of all, there is no confusion about which amendment we are talking about. There is only one amendment. The only question is whether it was a printed or an unprinted amendment. That is a red herring, if I may say so.

Second, hearings have been held on this question. They have been held in the Committee on Commerce. I presided over those hearings, and if the Senator from Wyoming had seen fit, he could have come and participated in those hearings. Testimony has been taken——

Mr. HANSEN. That is not——

The PRESIDING OFFICER (Mr. Chiles). The Senator from Illinois has the floor.

Mr. STEVENSON. Testimony has been taken not only in the Commerce Committee but also in the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary on this question.

If there are wells that are shut in on these public properties for legitimate reasons, this amendment would permit the Secretary of the Interior to continue that shut-in producing classification. What I am saying in this amendment is, first of all, that some 60 percent of the Nation's oil and gas resources are within the public domain—some 60 percent. It could be as high as 75 percent. Of all these public resources, only 2 percent are now leased. Of the 2 percent leased, we find that 10 percent are not producing. In the Gulf of Mexico alone, there are over 1,000 oil and gas wells at this moment, commercial wells, and not producing.

If there is some legitimate reason for keeping them shut in, in this time of national emergency, then the Department of the Interior can keep them shut in. But I am suggesting to the distinguished Senator from Wyoming (Mr. Hansen) that there is every economic incentive on the part of the producers to keep them shut in because they can expect higher prices, whether it is natural gas or oil, in the future. The higher prices in the future will more than cover the carrying costs of the shut in wells. They have every economic incentive to keep the wells shut in. That is exactly what they are doing. That is exactly what the testimony in the Commerce Committee and in the Judiciary Committee indicated they are doing; for economic reasons they would let the people of this country go cold in order to make greater profits down the road.

If there is some legitimate reason, then let them shut them in. That is what this amendment proposes. If there is not a legitimate reason for keeping them shut in, then let the owners of the wells give the public the benefit of them. They can either produce them or forfeit them.

Mr. HANSEN. Mr. President, the distinguished Senator from Illinois suggested that if I had been there I might have testified before this committee.

I should like to remind the distinguished Senator that I did. Indeed, I testified before this subcommittee, at length.

Mr. STEVENSON. That is not what I said. First of all, it is not my subcommittee. It is the full Commerce Committee. I said that if the Senator had been interested in this issue, he could have come and participated in the hearings on this issue, after the Senator from Wyoming had said there had been no hearings and that we had not studied the issue.

Mr. HANSEN. I said, or if I misspoke myself, let me correct myself now, but I am not saying I did misspeak myself—but it seems to me proper to hold the hearings before the Committee on Interior and Insular Affairs. The Committee on Interior and Insular Affairs has jurisdiction of the public lands of the United States. It has jurisdiction over the Continental Shelf, insofar as sanctions here go.

It would be entirely appropriate that that committee, under the able chairmanship of the distinguished Senator from Washington (Mr. Jackson), should hold the hearings.

I did testify before the Commerce subcommittee, or the full committee—I am not sure which—at length. There were some others who testified at that subcommittee hearing. I think the testimony we had was pretty relevant to the issue that is addressed by the Stevenson amendment.

The Senator from Illinois points out that only 2 percent of the—did he say the total area of the Continental Shelf was leased—was that the Senator's figure, 2 percent of the total land?

Mr. STEVENSON. The figure I used was 2 percent of the total lands with oil and gas, on and off-shore, public lands.

Mr. HANSEN. If that is a fact, and I am not prepared to challenge it, I should like to say that I think that, insofar as oil prospects inland go within the continental area of the United States, there is now, or there was at one time, a rather large amount of the land leased. I do not have what the figures are, but in the public lands of the States, I know that it has been a significant amount of the total area that has been leased at one time or another, and for good and sufficient reason. Companies having those leases either drilled them or decided they did not any longer want to pay on the leases.

With respect to the Outer Continental Shelf, I have contended for a long time that the United States should speed up the availability of the Outer Continental Shelf. Senator Fannen and I went up to Massachusetts and testified in order that we hoped to be able to encourage CEO to recommend that those areas be drilled. The President has called for the drilling of the Outer Continental Shelf. I just think that this Senator cannot be blamed for the fact that there is not more of that leasing. There should be more of that leasing. I am disappointed that some of the New England States have been as adamant as they have been in objecting to drilling of the Outer Continental Shelf and as insistent, on the other hand, as they have been, saying, "Send us your oil from the Southwest and from the Gulf States."

I point out again, Mr. President, that this amendment should be examined by constitutional lawyers to see whether, indeed, it might not try to give legislative sanction to a constitutional taking of property.

In my mind and in my judgment, I think that that is a very relevant question to be asked and answered. I suspect, written as the amendment is, it could indeed result, if it were to be put into operation, in the taking of private property.

Mr. TUNNEY. Mr. President, will the Senator from Illinois yield for a question?

The PRESIDING OFFICER (Mr. Helms). Does the Senator from Illinois yield to the Senator from California?

Mr. STEVENSON. Mr. President, first, I thank the distinguished Senator from Wyoming (Mr. Hansen) for clarification of some of the points raised in this debate. I want to assure him that I sympathize completely with his desire to see greater development of the lands within the public domain. That, though, is not the issue here. It is the leasing of these properties and they are not developed. That is what the issue is. Some 2 percent of the total land onshore and offshore is leased and on that 2 percent, we find, once developed, and the wells have been drilled, that they are shut in.

If there is some legitimate reason for that, alright; but, if there is no legitimate reason for it, they should be producing.

That is the purpose of this amendment.

Now I am happy to yield to the Senator from California.

Mr. TUNNEY. Mr. President, I notice by the Senator's amendment that, in all probability, the Senator would apply the language to the Santa Barbara Channel. I am wondering whether that is the intention of the author of the amendment and if that is going to mean they will have to start producing wells in the Santa Barbara Channel or risk forfeiture of the leases?

Mr. STEVENSON. That is not the intention of the Senator from Illinois. It was a concern to us in the drafting of the amendment, but we concluded that the economic costs of putting the wells on production would be exceeded by the economic losses to the Nation.

The proviso in the amendment would exclude the wells in the Santa Barbara Channel. They would not have to be put into production as a result of this amendment. That is our intention, I think the intention is made clear in the language of the proviso, beginning on line 6.

Mr. TUNNEY. One of the problems we ran into in the Santa Barbara Channel was that this was a unique area insofar as environment quality was concerned. There were many people who thought that the oil spills we had, particularly the major spill several years ago, had a substantial impact in denigrating the quality of the environment, and they were opposed to drilling not because of the economic costs of the clean up but because of the denigration to the quality of the environment.

I would suggest that perhaps the Santa Barbara situation falls outside the proviso that the Senator has in his amendment.

Mr. STEVENSON. Our feeling was that the economic benefits and the environmental benefits are associated with one another. Environmental degradation is an economic cost and, that being the case, it was my feeling, and still is, that the proviso which requires economic benefits to outweigh economic burdens would exempt the kind of environmental damage which might occur in the Santa Barbara Channel.

Mr. TUNNEY. I am pleased to note from the amendment that the Senator does not intend to include the Santa Barbara Channel, that the legislative history of the amendment is such that the Santa Barbara Channel is excluded from the amendment. I must say that I personally still have trouble with the language itself, but I am pleased that the author of the amendment suggests this does not include the Santa Barbara Channel.

Mr. STEVENSON. If there is any trouble with the language, I think we have eliminated it in the legislative history.

Mr. President, I did not intend by this amendment, as the Senator from Wyoming indicated, to blacken the name of the oil and gas industry; but I would be quite prepared to do so if it meant keeping one family warm this winter or one factory open this winter. That is the purpose of this amendment.

Mr. JOHNSTON. Mr. President, in its present form, the Committee on Interior and Insular Affairs would oppose this amendment. We believe that the amendment is needed, to the extent that it would require the producing of shut-in wells that are economically or geologically producible, technically producible, and to the extent that it would not result in an unconstitutional taking of property in violation of the fifth amendment. We think it presents those problems in its present form.

I am authorized to say, on behalf of the Committee on Interior and Insular Affairs, that we will have hearings on this problem and, hopefully, will arrive at a position that will serve the ends that this amendment is intended to serve. However, we believe that at the present time and in the present form, the amendment is not practical.

For example, the amendment would require that the President order the production of all Federal oil and gas leases, even though with respect to some there may be no pipeline capacity and no refining capacity may be available at the time and at the place the oil is brought in. There may be no tankers to transport it, to the extent that there is no pipeline capacity.

The economic cost cannot be measured in terms of the benefit to the Nation. The benefit to the Nation cannot be quantified as a measure to offset the economic cost of the drilling, and to that extent it may well be a violation of the taking provision of the fifth amendment.

As I say, the committee is entirely in sympathy with the need to produce oil, with respect to economically and geologically producible wells in the gulf. However, we believe that in the present form, the amendment should not be adopted.

Mr. BARTLETT. I should like to make one brief remark. It is my understanding that the Federal leases provide that if reserves are not developed and marketed in a prudent manner, the lease may be canceled. I believe that applies in this case.

Mr. STEVENSON. That is the point of the amendment—the regulations and the law are not being carried out. This is intended to carry it out. These wells are capable of production. They should be producing. If there are any of the problems mentioned by the Senator from Louisiana, including the economic costs associated with production, then they would not have to be placed in production.

Mr. BARTLETT. I think that as the amendment is written, it would require the Santa Barbara wells to be produced and perhaps would also require the production from Elk Hills Naval Reserves.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois, as modified.

Mr. STEVENSON. Mr. President, I ask unanimous consent, once more, to modify this amendment; and if unanimous consent is not forthcoming, I will offer another.

Mr. HANSEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENSON. Mr. President, I ask unanimous consent to withdraw the amendment, and I will send another amendment to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Illinois, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from California (Mr. Cranston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), the Senator from Mississippi (Mr. Stennis), the Senator from Arkansas (Mr. Fulbright), and the Senator from Minnesota (Mr. Mondale) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Maine (Mr. Muskie), and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Tennessee (Mr. Baker), the Senator from Kentucky (Mr. Cook), the Senator from New Mexico (Mr. Domenici), the Senator from Oregon (Mr. Hatfield), the Senator from Idaho (Mr. McClure), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "nay."

The result was announced—yeas 32, nays 48, as follows:

[No. 491 Leg.]

YEAS—32

Abourezk
Bayh
Biden
Byrd, Robert C.
Cannon
Case
Church
Clark
Dole
Eagleton
Ervin

Hart
Hartke
Hathaway
Hollings
Hughes
Inouye
Jackson
Javits
Mansfield
McGovern
McIntyre

Moss
Pastore
Pearson
Pell
Proxmire
Ribicoff
Schweiker
Stevenson
Symington
Williams

NAYS—48

Aiken
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Chiles
Dominick
Eastland
Fannin

Fong
Goldwater
Gravel
Griffin
Gurney
Hansen
Haskell
Helms
Hruska
Johnston
Long
Magnuson
Mathias
McClellan
McGee
Metcalf

Montoya
Nunn
Packwood
Percy
Randolph
Roth
Scott, Hugh
Scott, William L.
Stafford
Stevens
Taft
Thurmond
Tower
Tunney
Weicker
Young

NOT VOTING—20

Allen
Baker
Cook
Cotton
Cranston
Curtis
Domenici

Fulbright
Hatfield
Huddleston
Humphrey
Kennedy
McClure
Mondale

Muskie
Nelson
Saxbe
Sparkman
Stennis
Talmadge

So Mr. Stevenson's amendment (No. 661), as modified, was rejected.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senators, I ask unanimous consent that the Senate proceed to a vote on final passage of S. 2589 at 5 p.m. on Monday, November 19, 1973; provided, that no amendment shall be in order if it relates directly or indirectly to the regulation of intrastate natural gas or to the regulation of natural gas presently subject to regulation by the Federal Power Commission, and that rule XII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object, the vote, as I understand it, would then occur at 5 o'clock.

Mr. MANSFIELD. On final passage.

Mr. MATHIAS. On final passage.

Mr. MANSFIELD. Yes.

Mr. MATHIAS. I have pending an amendment which affects procedures which might be followed. It is an amendment which grows out of our observations of the misfortunes that have been encountered in wage price controls as administered by the Cost of Living Council. I think we ought to take advantage of that experience, and I would not like to have that amendment so restricted in the time available for it that it could not be properly considered.

Mr. MANSFIELD. Does the Senator have a suggestion?

Mr. MATHIAS. We could proceed with it perhaps first thing Monday morning.

Mr. JACKSON. Mr. President, it would be fine with me to take it up the first thing, Monday at 9 o'clock. We would want to vote on the amendment relating to an antitrust provision, which is very complicated, and which we have worked out with the minority, the majority, and the administration, so that we could take it up first thing at 9 o'clock. We have an agreement on the antitrust matter. We could take up the amendment first thing, at 9 o'clock Monday morning.

Mr. MATHIAS. That would be agreeable to me, and have a vote on it at the end of the time.

Mr. JACKSON. Could the Senator reserve the first 10 minutes for the Senator from Colorado? He did have a colloquy he wanted to have with me, I believe.

Mr. ROBERT C. BYRD. Mr. President, could we have order? There are many Senators at their seats who cannot hear the colloquy going on in the well.

The PRESIDING OFFICER. The Senate will be in order.

Mr. JACKSON. Mr. President, I ask unanimous consent that on Monday morning the first order of business be a colloquy of not to exceed 10 minutes with the Senator from Colorado—I think we might be able to handle it within that much time—and that immediately thereafter we take up the Mathias amendment.

Mr. JAVITS. Mr. President, may I have a 10-minute colloquy? I have something involving power for New York State.

Mr. JACKSON. Would it follow the Mathias amendment?

Mr. JAVITS. Yes.

Mr. LONG. Mr. President, reserving the right to object, I do not know what is in it, but I assume it does not relate to these two situations, to deregulation or regulation by the Federal Power Commission.

Mr. MANSFIELD. No.

Mr. JACKSON. Mr. President, any unanimous-consent request I may make shall be consistent with the unanimous-consent request propounded by the majority leader.

Mr. JAVITS. Mr. President, what does the unanimous consent do about amendments to the bill?

Mr. JACKSON. All amendments are in order excepting an amendment in connection with intrastate or interstate natural gas or deregulation of natural gas now subject to the jurisdiction of the Federal Power Commission.

Mr. JAVITS. But there is no limitation of time, so that amendments may be caught in the crack at the end and may be voted on without debate. Is that correct?

Mr. MANSFIELD. That is correct. That could happen under this proposal if we agreed to a final vote at 5 p.m. on Monday next.

Mr. JAVITS. May we do this? We have done it before. I am not going to object to this, but I am raising it because I think it is only fair—that there be a gentlemen's understanding in the Senate that Senators will have an opportunity, if we can manage it, and that takes cooperation, if Senators do have amendments of substance, to at least have some small chance to debate them, rather than go to the very end and be caught in this crack?

Mr. MANSFIELD. We will do the very best we can. I will say to the distinguished Senator from New York, and I will change the unanimous-consent request to make it not later than 5 o'clock.

Mr. JACKSON. Mr. President, I will make the same point. I will do everything I can, because I have tried, in managing this bill on the floor, working with the Senator from Arizona (Mr. Fannin), to see that all of our colleagues get an equitable proportion of the time, including the proposal by the Senator from North Carolina, with which I disagree.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, this does not interfere with rollcalls votes, even though 5 o'clock has come?

Mr. JACKSON. The Senator is correct.

Mr. JAVITS. In other words, rollcalls may go on until a later hour, until we vote on the bill, but every amendment will be voted on if Senators wish?

Mr. JACKSON. The Senator is correct.

Mr. MANSFIELD. May I say we have a lot of time this afternoon. This is early in the afternoon. We could have our colloquies this afternoon. We could consider amendments this afternoon. As long as we are here, we may as well use the time to good advantage and not wait until Monday and pile everything up—that is, if this proposal is agreed to.

The PRESIDING OFFICER. Will the Senator repeat his unanimous consent request? Not later than 5 o'clock Monday?

Mr. MANSFIELD. Not later than 5 p.m. on Monday, November 19, 1973, and that rule XII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. METCALF. Mr. President—

The PRESIDING OFFICER. The Senator from Montana.

Mr. METCALF. Mr. President, reserving the right to object, I would like to have my distinguished colleague explain why rule XII should be waived.

Mr. MANSFIELD. It is the usual procedure, so that we can keep amendments within the germane area, and it refers to a quorum call, too.

Mr. METCALF. It does not necessarily mean that we waive the right to roll calls?

Mr. MANSFIELD. It does not.

Mr. METCALF. Because rule XII is the rule that provides for rollcalls, and so forth, and we are not waiving that provision of the rule?

Mr. MANSFIELD. We are waiving the quorum call before the unanimous consent so that Members will be on notice, but that would not preclude us from putting in a brief quorum call to notify Members of the Senate.

Mr. METCALF. I understand.

The PRESIDING OFFICER. The Chair will read the provision of the rule, paragraph 3:

No request by a Senator for unanimous consent for the taking of a final vote on a specific date upon the passage of a bill or joint resolution shall be submitted to the Senate for agreement thereto until, upon a rollcall ordered for the purpose by the Presiding Officer, it shall be disclosed that a quorum of the Senate is present. . . .

Mr. METCALF. The Senator is not asking for a waiver of all of rule XII?

Mr. MANSFIELD. No; just this one part.

Mr. METCALF. Just paragraph 3?

MR. MANSFIELD. That is right.

MR. METCALF. I withhold my objection.

MR. JAVITS. Mr. President, if the Senator will yield, on the "not later than 5," it means that if we go to third reading before 5 o'clock we will have a vote, but if we have not gone to third reading by 5 o'clock, then the procedure will start, and each amendment will be acted on, but without debate?

THE PRESIDING OFFICER. Senators will have until 5 o'clock to speak if they seek recognition and desire to speak, unless otherwise ordered, and they cannot be cut off.

MR. PERCY. Mr. President, could the floor manager of the bill explain to the Senate what the intention would be so far as this afternoon is concerned? Is there going to be a time certain beyond which there will not be rollcall votes?

MR. JACKSON. Mr. President, if we could get this agreement, and only if we could get this agreement, I would propose, if it is agreeable, a unanimous-consent request that on controversial amendments we take up the amendments this afternoon and have back-to-back rollcall votes on those amendments immediately after the accomplishment of the three unanimous-consent agreements on Monday.

MR. MANSFIELD. Mr. President, are there any amendments to be offered this afternoon on which there may be rollcall votes?

MR. PROXMIRE. I have one.

MR. METCALF. Mr. President, I believe that we want a rollcall vote.

MR. STEVENSON. Mr. President, I do not know whether a rollcall vote would be required on my amendment. It is my hope that the manager of the bill would agree to accept the amendment. And if so, we could dispose of it without a rollcall vote.

MR. MANSFIELD. As I understand it then, as far as we can see, there will be two amendments and maybe three this afternoon.

MR. JAVITS. Mr. President, I could offer mine if the distinguished majority leader would like.

MR. JACKSON. Mr. President, we could have back-to-back votes.

THE PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

MR. GOLDWATER. Mr. President, reserving the right to object, and I do not think I will, I would like to ask the Senator——

SEVERAL SENATORS. We cannot hear the Senator.

MR. ROBERT C. BYRD. Mr. President, we cannot even see the Senator, much less hear him. Would the Chair have Senators take their seats?

MR. GOLDWATER. Mr. President, I do not trust microphones or tapes.

MR. MANSFIELD. We could not see the Senator.

MR. ROBERT C. BYRD. Mr. President, would the Chair please get order before the Senator proceeds?

THE PRESIDING OFFICER. The Senate will be in order [rapping for order].

MR. ROBERT C. BYRD. Mr. President, There is only one way to get order, and that is the right way.

THE PRESIDING OFFICER. The Senator from Arizona may proceed.

MR. GOLDWATER. Mr. President, I want to inquire of the Senator from North Carolina what his intentions are as to his amendment which pertains to busing.

MR. HELMS. Mr. President, I did talk with the distinguished Senator earlier today when I discussed with the distinguished assistant majori-

ty leader a time limitation to which I agreed, and I suppose that is still in effect. It is for 40 minutes, 20 minutes to the side.

I would inquire of the distinguished Senator from West Virginia if that is correct.

Mr. ROBERT C. BYRD. Mr. President, the Senator accurately states his conversation with me earlier today. He suggested 40 minutes to be equally divided on his amendment. This agreement which we have been discussing here does not provide for any time limitation on any amendment.

I did mention to the Senators in the cloakroom back here when we were discussing the possibility of this agreement that the Senator from North Carolina had made that request. I saw the Senator on the floor just now and I thought he could raise the question himself and object to the request. Consequently, I said nothing.

Mr. MANSFIELD. Mr. President, the Senator can be assured of the 40 minutes to be equally divided that he desires.

Mr. HELMS. Mr. President, I thank the majority leader. That is all I ask. I probably will not take that long.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

There is another unanimous consent request pending, a request by the Senator from Montana. Would the Senator from Montana restate his unanimous consent request?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the amendment offered by the distinguished Senator from North Carolina (Mr. Helms) is called up, there be a time limitation of 40 minutes, the time to be equally divided between the distinguished Senator from North Carolina (Mr. Helms) and the distinguished Senator from Washington (Mr. Jackson).

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the amendment of the distinguished Senator from Wisconsin (Mr. Proxmire) is called up, there be a time limitation of 30 minutes, the time to be equally divided between the Senator from Wisconsin (Mr. Proxmire) and the manager of the bill.

Mr. PROXMIRE. Mr. President, I do have a modification of my amendment. And I would like to make that modification now so that I do not have to ask for unanimous consent once the agreement takes effect.

Mr. MANSFIELD. That would be all right.

Mr. PROXMIRE. I ask unanimous consent that there be 20 minutes, 10 minutes to the side. That is with respect to the modified amendment I have at the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, would the distinguished Senator from North Carolina indicate when he would call up his amendment?

Mr. HELMS. Mr. President, I was about to ask unanimous consent, if I might do so, that my amendment follow the amendment of the Senator from New York (Mr. Javits).

The PRESIDING OFFICER. That would be on Monday.

Mr. HELMS. Very well.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina?

Mr. JAVITS. Mr. President, we have not got unanimous consent as yet on the order of progression, as I understand it, that the Senator from Washington proposed.

Mr. JACKSON. Mr. President, I thought we had.

The PRESIDING OFFICER. We did not.

Mr. FANNIN. Mr. President, it is my understanding that we have not as yet agreed upon any time limitation or any time certain.

ORDER FOR ADJOURNMENT TO 9 A.M. ON MONDAY NEXT

Mr. JACKSON. Mr. President, I ask unanimous consent, if it is agreeable with the leadership, that when the Senate adjourn today, it come in at 9 o'clock on Monday morning.

Mr. MANSFIELD. That is all right.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

ORDER FOR TIME LIMITATION ON COLLOQUY MONDAY NEXT

Mr. JACKSON. Mr. President, I ask unanimous consent that the first 10 minutes on Monday next be made available for a colloquy between the junior Senator from Washington and the junior Senator from Colorado in connection with the pending bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

Mr. JACKSON. Mr. President, I think as a matter of fact that it will be less than 10 minutes, maybe 3 or 4. However, we will work that out.

ORDER FOR LIMITATION OF TIME ON MATHIAS AMENDMENT ON MONDAY NEXT

Mr. JACKSON. Mr. President, I ask unanimous consent that immediately thereafter the Mathias amendment be considered for not more than 30 minutes, with 15 minutes to a side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

ORDER FOR LIMITATION OF TIME ON JAVITS AMENDMENT OR COLLOQUY ON MONDAY NEXT

Mr. JACKSON. Mr. President, I ask unanimous consent that immediately thereafter, the Javits amendment or colloquy take place.

Mr. JAVITS. Ten minutes to the side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

Mr. AIKEN. Mr. President, there is a continuing reference to the colloquy between the Senator from Washington and the Senator from Colorado. If it is important, why do we not have it now, if it will only take a few minutes, and find out what it is.

Mr. JACKSON. Mr. President, a number of other things will be coming up.

Mr. MANSFIELD. Mr. President, it looks like there will be three amendments.

Mr. JACKSON. Mr. President, there are three amendments.

Mr. AIKEN. Mr. President, we have already spent enough time to have that colloquy three times over.

ORDER FOR BACK-TO-BACK ROLLCALL VOTES ON MONDAY NEXT

Mr. JACKSON. Mr. President, I ask unanimous consent that, if there are to be rollcall votes on an amendment or amendments offered this afternoon, those rollcall votes come back to back immediately after the disposition of the Javits colloquy or amendment on Monday next.

Mr. GOLDWATER. Mr. President, if the Senator will yield, I wonder if we could find out now if there will be rollcall votes. A number of Senators possibly have engagements.

Mr. MANSFIELD. There are possibilities, and I do not think we ought to put them off until Monday. We ought to dispose of them this afternoon.

Mr. ROBERT C. BYRD. Mr. President, I feel an obligation to call to the attention of the Senator from North Carolina (Mr. Helms) the request he made earlier that immediately following the disposition of the amendment or colloquy by the Senator from New York (Mr. Javits), whichever there may be, the distinguished Senator from North Carolina (Mr. Helms) may then be recognized to offer his amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington?

Mr. HELMS. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Was not the unanimous-consent agreement that the Senator from North Carolina (Mr. Helms) have his amendment considered immediately after the amendment or colloquy of the Senator from New York (Mr. Javits)?

Mr. HELMS. Yes, but on what date?

Mr. MANSFIELD. Monday.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

Mr. HANSEN. Mr. President, I should like to ask the majority leader if he would agree to arranging some time for me to present an amendment that I shall offer on Monday next, with 10 minutes on either side set aside for it. I do not think it will take that long.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 20-minute limitation on this matter, to be equally divided between the sponsor of the amendment and the manager of the bill, immediately following the Helm amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

Mr. FANNIN. Mr. President, if I may have the attention of the majority leader, we have five administration amendments.

Mr. MANSFIELD. Yes. Mr. President, I ask unanimous consent that the five administration amendments to be offered by the distinguished Senator from Arizona, the ranking minority member on the committee and the comanager of the bill, immediately follow the amendment to

be offered by the distinguished Senator from Wyoming (Mr. Hansen), and that those five amendments have time limitation of 10 minutes each, to be equally divided between the sponsor of the amendments and the manager of the bill.

Mr. STEVENSON. I had intended at this time to offer an amendment requiring the production of certain oil and gas wells that have been shut in. On further consideration, I have decided to take additional time to study the language. I intended to call up that amendment on Monday.

AMENDMENT NO. 650

Mr. PROXMIRE. Mr. President, I send my amendment No. 650 to the desk and ask that it be stated.

The legislative clerk read as follows:

AMENDMENT NO. 650

At the proper place insert the following new section:

SEC. —. (a) No funds made available under any Act may be used for the purchase, hire, or operation and maintenance of passenger motor vehicles (other than passenger motor vehicle of the types generally available in motor pools of Government agencies on the date of the enactment of this Act) or for the salaries or expenses of chauffeurs or drivers to operate passenger motor vehicles.

(b) No funds made available under any Act may be used for the purchase, hire, or operation and maintenance of any passenger motor vehicle for the transportation of any Government officer or employee between his dwelling and his place of employment, except in cases of medical officers on outpatient medical service and except in cases of officers and employees engaged in fieldwork in remote areas, the character of whose duties make such transportation necessary, and only when such exceptions are approved by the head of the department concerned.

(c) Subsection (a) and (b) shall not apply with respect to the purchase, hire, operation, and maintenance of (1) one passenger motor vehicle for use by the President, or (2) of passenger motor vehicles operated to provide regularly scheduled service on fixed routes.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. I understand that by unanimous consent a limitation has been agreed to on this amendment, and that we have 10 minutes to a side. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, the amendment is offered on behalf of myself and the distinguished Senator from North Carolina (Mr. Helms).

This amendment would outlaw the purchase, hire, maintenance or operation of limousines, heavy and medium sedans and for the salaries and expenses of the chauffeurs to drive them.

This amendment does two or three very simple things.

First, no funds can be spent for limousines, heavy and medium sedans. These are the big gas-guzzlers.

Second, no funds can be spent for the salaries and expenses of the drivers and chauffeurs to drive them.

Third, no car, large or small, can be used to drive officials to and from their homes and their offices.

The only exceptions to these blanket restrictions are that we retain one limousine each for the President of the United States, the Chief Justice, each member of the President's Cabinet, and the elected lead-

ers of the Congress, Government doctors on outpatient service and those officials engaged in fieldwork can use their cars to go to and from home, and the salaries for drivers are not cut off when they operate passenger motor vehicles over regularly scheduled routes or for shuttle service.

I have modified my amendment from its original form which prohibited limousines for everyone except the President. I realized that was too far-reaching and I have modified the amendment accordingly.

What this means is that every official but the President, the Chief Justice, the members of the Cabinet, and the elected leaders of the Congress will have to drive himself to and from home in his own car. Hopefully, he will join a motor pool with his colleagues who also previously were driven around town in the big cars.

It also means that when any official of the Government, except the President, needs a car for official business, he goes to his agency motor pool and gets an ordinary light car. This should save heavily on gasoline consumption.

It also means that the official will drive that car himself. There is no reason why he should not do that. Everybody else does. Further, it will save on the average about \$14,000 to \$17,000 a year for each chauffeur's salary. While there are still no adequate figures, my belief is that about 800 officials will be affected by this amendment.

There are dozens of reasons why we should take this action. We have an energy shortage. Gasoline for the cars of working men and women, for housewives, and for Americans who find driving a necessity, may soon be rationed. It is impossible to justify having several hundred—probably several thousand—Government officials squired around in huge chauffeured limousines while we ration gasoline for the public. That just will not "fly."

How can any responsible Government official in good conscience insist on being driven around Washington in gas-guzzling monsters when this Nation needs every gallon of gasoline it can get for essential purposes?

How confused can our priorities be when Government officials call on the people to surrender our hard earned clean air because fuel is short and then show their selfish contempt by insisting on having the last word in personal custom-designed gas-wasting limousine service?

It will be argued that the amount of gasoline saved would be relatively small, and that is true. But the example given by Federal officials who make the decisions that impose sacrifices on all the American people are of the greatest importance.

What irony it is to see minor officials at the White House, the Interior Department, and in the energy-related agencies being driven around Washington in gas-guzzling chauffeured monsters at the moment they are making the decisions to deprive their fellow American of gasoline to drive their cars and of fuel oil to heat their homes.

In my view most public officials should already have given up the snobbish symbol of arrogance that the chauffeured limousine has become, if for no other reason than out of compassion for our long suffering taxpayers.

One of the worst offenders, but by no means the only offender in providing an excessive number of chauffeured cars and limousines,

is the Pentagon. At the present time the Department of Defense has authorized—I believe clearly in violation of the statutes—transportation between their office and home of dozens of officials. It includes not only the Secretary of Defense but the Deputies, the Assistant Secretaries, the counsels, the vice chiefs, all four star generals and admirals, and even the U.S. Representative to the Advisory Committee on the Ryukyu Island. One should also note the category entitled “Such other officials as may be subsequently designated.”

I ask unanimous consent that a list provided by the Comptroller General to the Ad Hoc Committee on limousines of DOD officials who are provided such transportation be printed at this point in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

DEPARTMENT OF DEFENSE OFFICIALS AUTHORIZED TRANSPORTATION BETWEEN
DOMICILE AND PLACE OF EMPLOYMENT AS HEADS OF EXECUTIVE DEPARTMENTS
AND PRINCIPAL DIPLOMATIC OFFICIALS

1. The Secretary of Defense.
2. The Deputy Secretary of Defense.
3. Secretaries of the Army, Navy, and Air Force.
4. Chairman, Joint Chiefs of Staff.
5. Chiefs of Staff of the Army and Air Force, Chief of Naval Operations and Commandant of the Marine Corps.
6. Director of Defense Research and Engineering.
7. Assistant Secretaries of Defense and the General Counsel of the Department of Defense.
8. Under Secretaries of the Army, Navy, and Air Force.
9. Vice Chiefs of Staff of the Army and Air Force, Vice Chief of Naval Operations, and Assistant Commandant of the Marine Corps.
10. Assistant Secretaries of the Army, Navy, and Air Force and the Director, Office of Civil Defense.
11. All other four star generals and admirals.
12. Chairman, Military Liaison Committee to the Atomic Energy Commission.
13. U.S. Representative to the Advisory Committee on the Ryukyu Islands.
14. Director, Joint Staff.
15. Director, National Security Agency.
16. Such other officials as may be subsequently designated.

ASSIGNMENT OF LIMOUSINES AND MEDIUM SEDANS WITHIN THE DEPARTMENT OF
DEFENSE

PART I—LIMOUSINES

A. OSD/JCS Defense Agencies

Secretary of Defense.
Deputy Secretary of Defense.
Chairman, Joint Chiefs of Staff.

B. Army

Secretary of the Army.
Chief of Staff, U.S. Army.

C. Navy

Secretary of the Navy.
Chief of Naval Operations.
Commandant, U.S. Marine Corps.

D. Air Force

Secretary of the Air Force.
Chief of Staff, U.S. Air Force.

PART II—MEDIUM SEDANS

A. OSD/JCS and Defense Agencies

Director, Defense Research and Engineering.
 Assistant Secretaries of Defense (9).
 General Counsel.
 Director, Civil Preparedness Agency.

B. Army

Under Sec. of Army.
 Vice Chief of Staff, U.S. Army.
 Asst. Sec. of Army (I&L).
 Asst. Sec. of Army (R&D).
 Asst. Sec. of Army (FM).
 Asst. Sec. of Army (CW).
 Asst. Sec. of Army (M&RA).
 CG, USAMC.
 Sp. Adv. to the Pres. on ManP. Mob.
 CG, I Corps.
 CG, USARADCOM.
 CG, 1st US Army.
 CG, 3d US Army.
 CG, XVIII Abn Corps.
 CG, III Corps & Proj Dir, Project MASSTER.
 CG, 5th US Army.
 CG, 6th US Army.
 CINC US Southern Command.
 CINCUSARPAC.
 Dep CINC & C/S USARPAC.
 COMUSMACV & CG USARV.
 Dep COMUSMACV.
 Dep CG, USARV.
 CG, USCONARC.
 CG, 8th US Army & CINCUNC/COMUSFK.
 Dep. CG, 8th US Army.
 C/S UNCOM/USFK.
 CG, USARJIS/IX Corps.
 SACEUR, SHAPE/CINCEUR.
 Chief of Staff, SHAPE.
 Dep CINCEUR.
 Chief of Staff, USEUCOM.
 CINCUSAREUR.
 Dep CINCUSAREUR.
 CG, TASCUM USAREUR.
 CG, V Corps.
 CG, VII Corps.
 US Rep-NATO Mil Com.
 Def Adv, US Mission to NATO.
 Dep Dir Gen, NICSMA.

C. Navy

Under Sec of the Navy.
 Asst Sec of the Navy (M&RA).
 Asst Sec of the Navy (I&L).
 Asst Sec of the Navy (FM).
 Asst Sec of the Navy (R&D).
 CINC Allied Force, Southern Europe
 CINCPAC.
 Chief of Naval Material.
 CINCLANT/CINCLANT FLEET
 CINCPAC FLEET.
 Vice Chief of Naval Operations.
 CINC Naval Forces, Europe.
 Cdr, Second Fleet.

C. NAVY—Continued

Cdr, Amphibious Force, LANT FLEET.
 Cdr, First Fleet.
 C/S, CGUSAE, AFSE.
 Cdr, Taiwan Defense Cmd.
 Cdr, Naval Air Force, PAC FLEET.
 Cdr, Eastern Sea Frontier.
 DEP CINCPAC FLEET.
 Cdr, Antisubmarine Warfare Force
 PAC FLEET.
 Cdr, Antisubmarine Warfare Force
 LANT FLEET.
 Cdr, Seventh Fleet.
 Cdr, Amphibious Force, PAC FLEET.
 Cdr, Sixth Fleet.
 Cdr, Naval Air Force, LANT FLEET.
 CINCPAC, Chief of Staff.

D. Marine Corps

Asst Commandant, US Marine Corps.
 Commanding General, Fleet Marine Force, LANT
 Commanding General, Fleet Marine Force, PAC.

E. Air Force

Under Sec of the Air Force.
 Asst Sec of the Air Force (M&RA).
 Asst Sec of the Air Force (I&L).
 Asst Sec of the Air Force (R&D).
 Asst Sec of the Air Force (FM).
 Vice C/S US Air Force.
 CINC SAC (Specified).
 CINC PACAF.
 CINC USAFE.
 COMs TAC, AFSC, AFLC, MAC, ADC, ATC.
 CINC Alaskan Cmd (Unified).
 CINC NORAD (Unified).
 COM Strike (Unified).
 COMS 2d, 5th, 7th, 8th, 13th, and 15th AFs (6).
 V/CINC EUR AF.
 V/CINC PAC AF.
 Cdr, Allied Air Forces, Southern Europe.
 US Rep—CENTO Perm Mil Deputies Gp.

Mr. PROXMIRE. Mr. President, but only yesterday the Defense Department invoked a 23-year-old law giving them priority for fuel. Also, they started saving fuel by slowing down the speed of our ships at sea, cutting training flights, slowing down aircraft speeds, and the like. I think we all commend them.

But in these circumstances surely it is proper to restrict the gas-guzzling limousines and the number of chauffeured officials as my amendment does. Are we to slow down our ships at sea so that the U.S. representative to the Advisory Committee on the Ryukyu Islands can be chauffeured home at night?

CONGRESSIONAL STUDY

It will be argued that we have a congressional study on limousines underway and that we should wait until the committee reports and action is taken. I am well aware of that. I am a member of that particular committee and I appreciate that the chairman of the Appropriations Committee appointed it.

That report is going forward now and the preliminary work of the GAO is first rate. My staff have been consulting with them as have the staff of the committee.

But that report is several months away. The GAO study will not be finished until March or April. Then the committee will have to determine what it should do.

Then, of course, it is up for debate in the Senate and then it would go to the House. We would not act on this from 3 to 6 months, or even longer, in Congress on any energy shortage that plagues us now.

My view is that we should knock out these limousines now. The energy crisis calls out for that action. Meanwhile the study should go on because we still do not know how many limousines are in the Government, the extent of the abuses connected with them, and the amount of money which we can save. That factual study is important. And if after March or April anyone really believes that we should once again go back to the practice of having every Tom, Dick, and Harry have his own limousine, then Congress can change what I am proposing we do today.

The argument that "now is not the time" is the enemy of more good proposals than any stock argument I can think of. But now is the time and we should act, now.

With the grave threat of gasoline and fuel oil shortages, with the sacrifices we are calling on the American people to make, and with the need of officialdom to set an example and not continue with a double standard, this action is the least that we can take. The time to abandon the luxury of Government limousines has come.

I urge the Senate to adopt our amendment.

Mr. JOHNSTON. Mr. President, this is a drastic step. Some may say it is a cruel step, that it will mark a drastic departure from the usual practice in Washington, the practice that so many have gotten so graciously accustomed to, of being driven around in large, polished limousines with uniformed drivers.

Well, Mr. President, it is time to take that drastic step, or to take that cruel step, if you will.

As this Nation girds for what may well be one of the most serious crises in its history, if it is cruel, or if it is drastic, we support it.

Mr. BIDEN. It is intentional or unintentional that the Senator from Wisconsin left out the Vice President? Is that because we have no Vice President?

Mr. PROXMIRE. No, because the Vice President would be covered as an elected official of Congress. The Vice President is the President of the Senate, of course—

Mr. BIDEN. So that he would have his limousine.

Mr. PROXMIRE. He would have a limousine. He is an elected official of Congress, as is the majority leader, and so forth.

Mr. BIDEN. I was just curious. I thank the Senator very much.

Mr. FANNIN. Mr. President, I could not disagree with the Senator's intent, but I feel this is something that should be given more consideration than 5 minutes.

How can the President operate his office and meet visiting dignitaries from all over the world? The President has certain special obligations he has to meet and which we certainly want him to perform. I wonder whether this is a fair way to handle our obligations to the President. Would the Senator want to comment on why he would want to limit the President to just one passenger motor vehicle?

Mr. PROXMIRE. What the amendment does is to prevent limousines from being available which have been available to particular officials in the past. It does not touch the pool of cars available for purposes of trips by officials. As I pointed out, he could use it for official business, as can the Chief Justice, and so forth. Dignitaries would certainly be taken care of by being driven in pool cars.

Mr. FANNIN. I understand that such action would not apply to purchase, hire, or operation and maintenance of passenger motor vehicles, but when we start talking about one passenger vehicle for the President of the United States, I just wonder if we are not placing the President—and that would be any President—in a position far beneath the obligations we have to—

Mr. PROXMIRE. It does not demean the President in any way at all. The Senator appreciates that the one exception I have made to begin with is with the President, to be given a limousine. That has been broadened and applies to his Cabinet, as well as to the Chief Justice and the elected leaders of Congress. As an example, the leaders of this Government should certainly be willing to make this kind of sacrifice.

Mr. FANNIN. I do not disagree with that goal, but I question—

Mr. PROXMIRE. The Senator also asked for figures. The Ad Hoc Limousine Committee, of which Senator Pastore is the chairman, is studying that. We have had difficulty finding out the number of cars, how much the gasoline is costing, and so forth. We did go into great detail when the Senate voted 82 to 4 to knock out all limousines for HUD, Space, Veterans' Administration, and other agencies.

We do not have the comprehensive figures because we have not had a chance to get testimony on it.

Mr. FANNIN. I would not oppose a provision as to the proper procedure to follow in the allocation of motor vehicles to the officials of our country after we have the information. I am wondering what modifications were made in the amendment.

Mr. PROXMIRE. The modification is on page 2, line 15, after "President." I added "and one each by the Chief Justice, members of the President's Cabinet, and the elected leaders of the Congress."

Mr. BENNETT. Would this knock out all other cars at the White House? No car would be available to the White House to take anybody in or out in an emergency?

Mr. PROXMIRE. No. This knocks out the cars assigned to particular officials. The pool is still available. The carpool is still available, as it has been in the past. As a matter of fact, the suggestion I made in my presentation was that this could be available to other officials for official business. It would be available to visiting dignitaries and persons of that stature.

MR. BENNETT. And the same is true as to all Cabinet agencies—cars, with chauffeurs to drive the cars?

MR. PROXMIRE. They are there, so far as the carpool is concerned. But the suggestion I have made—and the amendment would have that force—is that it would provide that the chauffeurs would not be available.

MR. JAVITS. That seems to me why I would vote against it. We would have to hire a chauffeur ourselves just to avoid all the parking problems. Does the Senator want these fellows to spend an hour or two trying to find a place to park? Every pool I know of in my State and in the city has chauffeurs or drivers. I do not care whether they are called chauffeurs or drivers. If the Senator is going to make it that tight, it is counterproductive. The Senator might as well tell us to prepare our own lunch.

MR. FANNIN. Where does the Senator exempt the pool? I am looking at the amendment.

MR. PROXMIRE. On page 1, lines 3 and 4, after the word "vehicles": "(other than passenger motor vehicles of the types generally available in motor pools of Government agencies on the date of enactment of this Act)".

That is the exemption for the pool.

MR. FANNIN. That is not a very specific explanation.

MR. PROXMIRE. There are 70,000 of them, and we have gone through this rather carefully. The Senate adopted a similar amendment on the appropriation with respect to HUD and the other agencies. At that time, it was debated on the floor. We had extensive testimony for several weeks, testimony on the number of limousines involved and what would happen if the limousine were not permitted. So we have a record on this.

MR. BROCK. I am a little amused and somewhat chagrined. Yesterday, the Senator from Wisconsin stood up and argued vehemently against an amendment I had offered with the Senator from New York because there were no hearings on the amendment, but all of a sudden this is all right.

MR. PROXMIRE. May I reply to the distinguished Senator from Tennessee?

MR. BROCK. As soon as I finish.

It also seems to me rather ridiculous to talk about consuming energy, when the biggest problem we have is in trying to administer this program thoroughly, trying to get enough people into the various agencies of government that are managing the problem, to manage it competently, trying to find enough time to put a program of this magnitude into effect. Here we are again reducing the time that is available to the managers of the program. In requiring them not only to drive their own cars, which is a pretty good time for study, but also to find time for parking and to spend all the extra effort that requires. If they do not have a car, they will have to go out and buy another automobile, which would result in another car being put on the road, to compound the energy crisis.

It seems to me that that is exactly what is happening to this bill. We are offering some of the most far-fetched amendments I can imagine, just because it happens to be a nice Christmas tree to which we can append any amendment that suits our fancy at the moment.

Mr. PROXMIRE. If I may reply to the Senator, the answer is that yesterday if the Buckley amendment passed it would have abolished the Wage Stabilization Act entirely, without any hearings, with an unprinted amendment. But on this limousine issue we have had hearings on this particular subject, weeks of hearings before the committee. So this amendment has been printed and has been available at the desk for a couple of days.

Mr. JOHNSTON. Mr. President, I should like to propound a question to the distinguished Senator from Wisconsin.

Is it his intention to do away with drivers in carpools?

Mr. PROXMIRE. The intention of the amendment is that the drivers not be used exclusively for a particular individual, with the exceptions I have given—that is, the President, the Vice President, Cabinet officers, and so forth. But the drivers in the carpools would be permitted on a specific assignment basis, for a particular trip.

Mr. JAVITS. The Senator would have to say that.

Mr. PROXMIRE. I would be happy to modify the amendment to that extent. Does the Senator from New York have such an amendment in mind?

Mr. JAVITS. We both have.

Mr. JOHNSTON. Mr. President, on behalf of myself and the distinguished Senator from New York, I propose that on page 2, line 2, the period be changed to a comma and that the following words be added: "except in carpools."

Mr. PROXMIRE. I am happy to accept it.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, does the Senator from Wisconsin want any more time?

Mr. WILLIAM L. SCOTT. Mr. President, I asked for the time only to inquire of the Senator from Wisconsin whether or not this would prevent the President from having more than one car for his executive use and more than one chauffeur. He might be traveling and might need a car and a chauffeur in the city; and then when he goes somewhere else, outside of the Capital, he would need another. I am prepared to vote in favor of the Senator's amendment in the event the President of the United States could be eliminated from the restrictions contained in the amendment.

Mr. PROXMIRE. I see the point. What concerns this Senator is that one of the problems has been with so many people in the White House. I think we might conceivably make some argument for something additional for the President, but we do not want to open this up so that we would have a situation in which you would continue to have chauffeur-driven limousines for a number of assistant White House aides. I see the Senator's point.

I am happy, so long as we can make that kind of legislative history, to provide a further modification—I think this is something the Senator from Arizona properly argued—as follows: On page 2, line 15, delete the word "one" and add an "s" after "vehicle," so that it would read as follows:

Shall not apply with respect to the purchase, hire, operation, and maintenance of passenger motor vehicles for use by the President, and one each—

So that the number "one" is deleted.

Is that satisfactory?

Mr. WILLIAM L. SCOTT. That is entirely satisfactory.

Mr. PROXMIRE. I ask unanimous consent to modify my amendment accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I should like to pose one question to the Senator from Wisconsin.

I understand that this would not give the Vice President a car.

Mr. PROXMIRE. Yes, it would.

Mr. FANNIN. I would like to have an explanation, because I was just told that this would not apply.

Mr. PROXMIRE. It is my interpretation that the Vice President is an elected leader of Congress. He is the President of the Senate, the Vice President of the United States, and he has a constitutional position, so it is clear that he would be an elected official of Congress.

Mr. BARTLETT. As I understand the modification of the Senator's amendment, he has eliminated the President from the limitation. Is that correct?

Mr. PROXMIRE. That is correct.

Mr. BARTLETT. I wish to commend the Senator for this. Those charged with guarding the life of the President have to use several cars in accomplishing this purpose, which I assume to be called presidential cars.

Mr. PROXMIRE. The Senator is correct.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Wisconsin, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD (when his name was called). Present.

Mr. GRIFFIN (when his name was called). Present.

Mr. MANSFIELD (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. Fulbright), the Senator from Washington (Mr. Jackson), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Rhode Island (Mr. Pastore), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Maine (Mr. Muskie), and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Massachusetts (Mr. Kennedy), the Senator from Rhode Island (Mr. Pastore), the Senator from Arkansas (Mr. Fulbright), the Senator from Georgia (Mr. Talmadge), and the Senator from Washington (Mr. Jackson) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Tennessee (Mr. Baker), the Senator from New Mexico (Mr. Domenici), the Senator from Oregon (Mr. Hatfield), the Senator from Nebraska (Mr. Hruska), the Senator from Idaho (Mr. McClure), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

Also, the Senator from Oklahoma (Mr. Bellmon), the Senator from Kentucky (Mr. Cook), and the Senator from Pennsylvania (Mr. Hugh Scott) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "yea."

The result was announced—yeas 53, nays 16, answered "present" 3, as follows:

[No. 492 Leg.]

YEAS—53

Abourezk	Gurney	Packwood
Aiken	Hart	Pearson
Bartlett	Hartke	Pell
Bayh	Haskell	Percy
Beall	Hathaway	Proxmire
Bentsen	Helms	Roth
Bible	Hollings	Schweiker
Biden	Hughes	Scott, William L.
Buckley	Javits	Stafford
Burdick	Johnston	Stevenson
Byrd, Harry F., Jr.	Magnuson	Symington
Cannon	Mathias	Taft
Case	McGovern	Thurmond
Chiles	McIntyre	Tunney
Church	Metcalf	Weicker
Clark	Montoya	Williams
Dole	Moss	Young
Eagleton	Nunn	

NAYS—16

Bennett	Fong	McClellan
Brock	Goldwater	Randolph
Brooke	Gravel	Stevens
Dominick	Hansen	Tower
Ervin	Inouye	
Fannin	Long	

ANSWERED "PRESENT"—3

Byrd, Robert C.	Griffin	Mansfield
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NOT VOTING—28

Allen	Hatfield	Nelson
Baker	Hruska	Pastore
Bellmon	Huddleston	Ribicoff
Cook	Humphrey	Saxbe
Cotton	Jackson	Scott, Hugh
Cranston	Kennedy	Sparkman
Curtis	McClure	Stennis
Domenici	McGee	Talmadge
Eastland	Mondale	
Fulbright	Muskie	

So Mr. Proxmire's amendment No. 650, as modified, was agreed to.

NO FURTHER YEA-AND-NAY VOTES TODAY

Mr. ROBERT C. BYRD. Mr. President, for the convenience of some Senators on both sides of the aisle who may have appointments elsewhere, may I ask whether or not any Senator intends to call up an amendment this afternoon and ask for the yeas and nays on such amendment? I see no Senator so indicating, so I think I can state to the Senate that there will be no more yeas-and-nays votes today.

PROTECTION OF THE HEALTH AND SAFETY OF EMPLOYEES

Mr. JACKSON. Mr. President, the able Senator from New Jersey (Mr. Williams) and the Senator from West Virginia (Mr. Randolph) earlier this week expressed concern to me that the pending measure might be construed to give the President the authority to relax, suspend, eliminate, or modify provisions of Federal and State laws designed to protect the health and safety of employees.

As Senators know, the Senator from New Jersey (Mr. Williams) is chairman of the Labor and Public Welfare Committee and the Senator from West Virginia (Mr. Randolph) is the ranking majority member of the Committee which has jurisdiction for laws designed to insure the health and safety of employees. Both of them have been active in the development of such vital legislation.

They had initially intended to introduce an amendment to S. 2589 to provide that no provisions of this act would be interpreted to permit or require any relaxation or modification of any provision of Federal or State law designed to protect the health and safety of employees. After extensive discussion, Senators Williams and Randolph agreed that they would not pursue their amendment. However, they have directed a letter to me outlining their concerns and requesting my response. I have assured Senators Williams and Randolph that there is absolutely no provision in S. 2589 which authorizes a relaxation, suspension, elimination, or modification of any provision of Federal or State law designed to protect the health and safety of employees. Mr. President, I ask unanimous consent that this exchange of correspondence be printed in the Record.

There being no objection, the correspondence was ordered to be printed in the Record as follows:

U.S. SENATE,

Washington, D.C., November 16, 1973.

Hon. HENRY JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington,
D.C.

DEAR MR. CHAIRMAN: This communication is to request your assurance that nothing in the National Energy Emergency Act can be construed to authorize a relaxation, suspension, elimination, or modification of any provision of Federal or State law designed to protect the health and safety of employees. It would seem clear from the language of the bill that the authors of this legislation have no intention of authorizing such actions and we know full well their commitment to the health and safety of America's workers. Indeed, it was with great pleasure that we welcomed your cosponsorship of S. 2117, the proposed Federal Mine Safety and Health Amendments of 1973.

Our concern may be considered far-fetched in the minds of persons who have knowledge of the National Energy Emergency Act. Nevertheless, we must recognize that the Congress, through this measure, is vesting the President with extraordinary powers and responsibilities. As in any measure there can be varying

interpretations of legislative language. It is our purpose to insure that none of the language in S. 2589 can be interpreted to give the President the power to relax the provisions of the Federal Coal Mine Health and Safety Act, the Occupational Safety and Health Act, and other worker health and safety laws, and the regulations promulgated under these measures for the protection of the health and safety of employees.

For example, there are provisions in the pending measure which give authority to the President to approve measures enacted by the State legislatures for the conservation and rationing of energy.

We want to make certain that no State legislature would move to relax health and safety laws and then the President, under the broad grant of authority, approve such measures of the legislatures.

Additionally, this measure provides that "no State Law or program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of the Act or any program issued pursuant thereto except insofar as such State Law or Program is inconsistent with the provisions of this Act." Here again we want to insure that the actions taken under State Laws and Federal activities under this measure will not be interpreted as authority to relax Health and Safety Laws to conserve energy.

In a more specific example it is possible that on a reading of the language of Section 203 of S. 2589 the energy requirements of such equipment as exhaust fans, elevators, and trolleys, and the utilization of rock dust (which is an energy related material) might be reduced based upon the finding that these activities are not essential activities and reduction of them would provide an additional means of conserving energy.

We need to be assured that reductions of available electrical energy cannot be ordered where the effect of such an order would be to create a conflict with the requirements of health and safety on the job site. For example, ventilation requirements have direct health and safety implications in many industrial settings.

Another example which is currently a critical problem in the coal mine industry is the use of roof bolts to support the mine roof. At present these are in short supply and suggestions have been made that the industry be allowed to return to increased use of timbers for support of the mine roof. While the Mining Enforcement and Safety Administration has very strongly indicated that there will be no relaxation we would again want to insure that as we move to conserve energy and produce additional coal, pressures are not brought to bear upon MESA to relax in any way its roof support requirements. This is an absolutely critical issue to the health and safety of miners since more miners are killed by roof falls than any other type of accident in a mine.

We believe that it is essential that we have the absolute assurance that laws for the protection of the health and safety of employees are not adversely impacted by S. 2589. There must be no threat to the well-being of our Nation's coal miners and workers in other industries.

We are intensely aware of your personal view on these issues but feel constrained to ask these questions so that the legislative record can be free from any ambiguity.

Your attention to this matter will be genuinely appreciated.

Sincerely,

HARRISON A. WILLIAMS, Jr.,
Chairman.

JENNINGS RANDOLPH,
Ranking Majority Member.

HON. HARRISON A. WILLIAMS, Jr.
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter, cosigned by Senator Randolph, concerning the impact of S. 2589 on Federal and State laws designed to protect the health and safety of employees. I appreciate your raising this issue and by doing so, giving me an opportunity to express my absolute agreement with the Senator.

There is absolutely nothing in the provisions of this legislation which authorizes a relaxation, suspension, elimination, or modification of any provision of Federal or State law designed to protect the health and safety of employees. No administrator under this law would be empowered in any way to require or per-

mit an employer to take any action which would contravene those health and safety laws. Indeed, no one subject to Federal or State health and safety laws, in my judgment, can use any of the provisions of this Act or orders issued pursuant thereto as justification for violation of any Federal or State law designed to protect the health and safety of employees.

Based upon the concerns expressed by you and Senator Randolph earlier this week, I was aware of the specific examples you mentioned in your letter and I am in total agreement with you that the health and safety laws will govern the responsibility of employers in instances such as these.

With kind regards,

Sincerely,

HENRY JACKSON, *Chairman.*

ENERGY FOR NORTHEAST STATES

Mr. JAVITS. Mr. President, I shall be just a minute. I have a colloquy to engage in. I would like to ask the manager of the bill this question:

I bring to his attention a major potential source of energy for New York State and for the other States in the Northeast power grid and to inquire whether any provision of this bill will help to accelerate the construction of this energy source.

The Power Authority of the State of New York presently has pending before the Federal Power Commission an application for a Presidential Permit pursuant to Executive Order 10485 of September 3, 1953. The permit would authorize the power authority to construct, operate, and maintain, at the New York-Canadian border, facilities for the interconnection of the Province of Quebec electric powerlines with those of New York State. The connection would result in the importation of 800 megawatts of hydroelectric power produced in Canada. It is expected that approximately 3 billion kilowatt hours of electric energy will be imported through the border connection annually. This imported electric energy will displace an equivalent amount of electric energy which would otherwise have to be generated within the United States in fossil fuel electric generating plants. It is obvious, therefore, that the acceleration of authority to construct the connection will conserve substantial amounts of fossil fuel resources, thereby making those precious resources available for other necessary uses.

With this in mind, I ask the distinguished Senator from Washington whether any provision in this bill would authorize the Federal Power Commission to expedite applications such as these, which would yield a significant contribution toward increasing our energy supplies. I think it should be made clear to the Federal Power Commission that the Congress expects it to take all possible action, consistent with its legislative mandate and the National Environmental Policy Act, which would result in increased energy supplies.

I would like to point out that **section 204(e)** directs all Federal agencies to report to the President and Congress within 30 days of enactment on all activities over which they have jurisdiction that could result in increased energy supplies. Because of this important provision, I do not think any specific amendment directed at Federal Power Commission authority is necessary. But I do want to emphasize that it is my understanding, and I will ask the Senator from Washington to explain further, that the Congress expects Federal agencies, such as the Federal Power Commission, to make thorough and comprehensive reviews of its pending applications and its

procedures, so that the Congress may be quickly informed of any necessary changes in the regulatory structure that would result in significant energy supply benefits.

Mr. JOHNSTON. Mr. President, there is no specific provision in the bill which deals with this precise question.

However, the President is delegated authority in the bill over all fuels except those limited fuels which are exempted specifically in the bill. The President would therefore have the power to delegate his power under the bill to the Federal Power Commission, and the commission in turn would then be exempted from the provisions of the Administrative Procedure Act to the extent provided in **section 309** of the bill. **Section 309** of the bill is intended to short-cut the rather extensive, time-consuming hearings under the Administrative Procedure Act to provide for a somewhat truncated procedure.

So, the President would have the authority to do that and to delegate the authority to the Federal Power Commission.

Mr. JAVITS. Mr. President, I thank my colleague.

Mr. President, I have one other ancillary point, and that is to inquire whether the Senator agrees with me that under **section 204(e)** we are entitled to receive from the Federal Power Commission and all other agencies all other information including a review of the pending applications so that we may be advised and the President can be advised of what we can do to accelerate new power sources.

Mr. JOHNSTON. Yes, I would agree with the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I thank the Senator.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator's yielding to me. I was on my feet attempting to be recognized.

I share the concern that each of the Members of this body has with regard to our energy shortage. However, I have reservations as to whether this is the bill or the proper approach in which to resolve the energy crisis. And I would like to pose a number of questions to the Senator from Arizona (Mr. Fannin), with the indulgence of the Senator from Oklahoma.

Mr. WILLIAM L. SCOTT. Mr. President, I wonder if the Senator from Arizona might refer to the additional minority views in the back of the committee report. There are a number of questions or reservations there. I have read them. It is indicated there that there is much regret that the workings of the marketplace are not utilized in this bill to stimulate and increase the supplies in the marketplace.

I am concerned that we do not have an adequate supply of energy. Does this bill stimulate an increase in the overall supply, or are we just sharing the scarcity?

Mr. FANNIN. Mr. President, I would say to the distinguished Senator from Virginia that the amendments offered by several of his colleagues on the Republican side did try to accomplish more to that end than this bill presently does. I feel that without some of those proposed provisions the bill does not accomplish our objectives with respect to increasing supplies.

In this legislation, the national energy emergency bill, we should take into consideration what could be done to produce more energy. There are incorporated in the bill encouraging provisions concerning coal.

We were unable to incorporate in the legislation some provisions that would assist greatly in the free marketing of natural gas and in

the free marketing of our petroleum products. We were not successful in achieving this goal.

Amendments have been offered on the floor of the Senate that would have accomplished the Senator's objectives.

Mr. WILLIAM L. SCOTT. Mr. President, is the Senator saying that those amendments were not agreed to?

Mr. FANNIN. Those amendments, regrettably, were defeated. There will be other amendments that I am sure will be offered today or on Monday that could result in increased supplies of energy.

I agree with the distinguished Senator from Virginia that in order to produce a true national energy emergency bill, we must deal also with the matter of increasing supply.

I hope that we will be able to do so before the bill is finally passed.

Mr. WILLIAM L. SCOTT. Mr. President, I notice, continuing on in the report, that it refers to the gap between supply and demand, and it indicates that in order for exploration to be conducted in a high risk investment there must be some price adjustment. I wonder if the distinguished Senator would comment on that.

Mr. FANNIN. Mr. President, I think the distinguished Senator from Virginia is familiar with the controls on interstate shipment of natural gas. They have been recognized as a great barrier to increased production. More wells drilled to greater depths offshore drilling, and many other costly endeavors would assist in making this product available. Unfortunately, the price of interstate gas is regulated at such a low level that the companies do not realize enough profit to drill these deep wells. For many companies the cost of producing gas exceeds the price at which they can sell it in interstate commerce. We will not accomplish the objective of increasing gas supplies unless that situation is changed.

Mr. WILLIAM L. SCOTT. Mr. President, is the Senator saying that this bill does not encompass offshore drilling and the obtaining of gas from the wells that might be available if there were a sufficient price incentive?

Mr. FANNIN. Mr. President, during the consideration of the bill in the committee these measures were defeated. Consequently they were not included in the legislation as it came to the Senate floor. Attempts have been made to include such provisions in the bill. However, they have not been successful. So, I must respond to the Senator from Virginia by saying that as the bill now stands, does not encourage additional supplies of fuel.

Mr. WILLIAM L. SCOTT. Mr. President, if the Senator from Arizona will refer again to the report, I notice that there have been several bills reported by the Committee on Interior and Insular Affairs this calendar year that have to do with energy.

The report indicates that those bills have something in common, a philosophical bent toward an increase in Federal regulation, whether in the area of energy-producing or energy-consuming activities.

Are we giving the Federal Government the authority to make more and more regulations which may actually have a detrimental effect on our supply?

Mr. FANNIN. Mr. President, I think the Senator realizes from his work in the House of Representatives and in the Senate that we have repeatedly over the past few years placed restrictions on the production of coal, oil, and gas. We have legislated stringent NEPA pro-

cedures which have resulted in the conversion of plants from utilization of coal to cleaner fuels such as natural gas and low-sulfur oil. This has been very costly.

Now we are faced with incentives for switching back to burning coal in as many plants as this can be accomplished.

This country has become dependent upon foreign supplies. We are importing over 30 percent of our petroleum products, and with the world situation as it is, this becomes a very serious matter.

Mr. WILLIAM L. SCOTT. Mr. President, the Senator is not suggesting that 30 percent of our petroleum products come from the Mideastern area of the world, the Arab States? We do import substantial amounts from other areas.

Mr. FANNIN. Our total imports amount to about 6 million barrels of oil a day, whereas we consume about 17 million barrels of oil a day.

Mr. WILLIAM L. SCOTT. Mr. President, I notice that after talking about the increase in Federal regulation the report says that these provisions are likely to repeat the mistakes made in the Federal regulation of natural gas production and in the imposition oil import quotas.

My thought is, with this in mind, are we actually getting at the crux of the problem of obtaining more energy or a larger supply of energy through the use of this bill?

Mr. FANNIN. No. The United States has not developed its own abundant natural resources. It has allowed itself to become critically dependent on imports. Domestic fuel production continues to decline, and natural gas production has peaked out. Because of the NEPA restrictions and other delays, nuclear plants are not being completed as rapidly as anticipated. The use of coal has been limited for environmental and other reasons. At this time we are experiencing a shortage of coal supplies. Oil and gas discovered off the North Slope of Alaska and off the coast of California in recent years are still undeveloped.

Congress did complete the Alaskan pipeline bill and the President has signed it.

I know the Senator realizes that we have many so-called exotic ways of developing energy—solar energy, geothermal steam, and others—but the fact remains that we are dependent on our petroleum resources to a great extent. Unfortunately this bill does not include proper incentives for increased production of those fuels.

Mr. WILLIAM L. SCOTT. I am sure the distinguished Senator would agree that this is a very far-reaching bill. Could the Senator indicate how much time the committee spent in the consideration of this legislation?

Mr. FANNIN. Yes. The committee held 2 days of open preliminary hearings and 2 days of open executive hearings.

Mr. WILLIAM L. SCOTT. A total of 4 days?

Mr. FANNIN. Yes, 4 days of extensive hearings. One lasted until 8:30 one evening. In addition, some parts of the bill were sent to other committees for their suggestions and even for specific language. It was developed with the hope that we could include the most helpful recommendations of members of both the Interior Committee and the Committee on Public Works.

Mr. JOHNSTON. If the Senator will permit me to make a unanimous consent request, I think it would be useful to the Senate to put the legislative history of this bill into the Record at this point. It discloses,

of course, that not only did we have the four days of hearings referred to by the Senator from Arizona, but hearings that last many months on the question of energy, which of course bear on the bill itself. So, Mr. President, I ask unanimous consent that the legislative history as revealed in the committee report accompanying this bill, commencing at page 14, be printed in the Record.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, I would ask that that be placed at the end of the colloquy.

Mr. JOHNSTON. I modify my request to that extent.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1, p. 2789.]

Mr. FANNIN. To add to what the distinguished Senator from Louisiana has stated, we began some of these hearings in December of 1972. Consequently, they did extend over a long period of time.

Mr. WILLIAM L. SCOTT. Mr. President, I know this is a very far-reaching bill, and I note, on page 54 of the report, the statement:

We fear, however, that excessive hasty action could result in horrendous and unintended calamity for the people and institutions of this country. Accordingly, we feel that it is incumbent upon us to tailor the emergency authority to the fuels shortages problem in order to avoid both delegation of excessively sweeping emergency authority and delegation of inadequate emergency authority.

I wonder if the distinguished Senator would say whether or not, in his opinion, this bill does set a course of national action which might not be in the best interests of the country over the long run.

Mr. FANNIN. Mr. President, in answering the distinguished Senator, I would say that much of the legislative content in this bill was requested by the President of the United States. We did work very closely with Administration officials. In my opinion it was neither the shortage of time nor the amount of endeavor put forth that contributed to any of the bills shortcomings. Any such shortcomings that I might mention were included in order to satisfy groups which objected to the immediate progress on strip mining or offshore drilling or on other endeavors that I think are very essential to the solution of our energy crisis.

Mr. WILLIAM L. SCOTT. Of course, Mr. President, I do not serve on the Interior Committee, but I have been reviewing the report, and I have reviewed it in some detail. It would appear to me that this bill would result in additional Federal regulation of both production and consumption of energy. It just seems to me that the ultimate answer to our energy problem is increasing our supply of energy of all kinds. I wonder if the distinguished Senator from Arizona would comment on that.

Mr. FANNIN. I certainly agree. We do have programs going forward. We have a new energy research and development bill—S. 1283—that we have been working on for many months.

Mr. WILLIAM L. SCOTT. What is the status of that, if the distinguished Senator knows?

Mr. FANNIN. I believe we will be able to report out that bill within the next 2 weeks.

Mr. WILLIAM L. SCOTT. Mr. President, on the way to the Capitol today, I had my automobile radio turned on, and I heard the statement made that we had a 2 months supply of oil in reserve. Is this the

understanding of the Senator from Arizona? Would that be a fair comment?

Mr. FANNIN. I would say to the distinguished Senator that I do not think we have 2 months of stored oil in reserve. We operate from the point of import directly to the consumer.

Mr. WILLIAM L. SCOTT. Do we have in our national strategic materials stockpile any great amount of petroleum that might be utilized?

Mr. FANNIN. Yes; we have four naval petroleum reserves. No. 1 is of some magnitude. Nos. 2 and 3 are not large; but No. 4, in Alaska, is a great reserve which is not fully developed.

Mr. WILLIAM L. SCOTT. I wonder whether, actually, there would be an alternative to the passage of such a sweeping bill under which we could get through this winter and then enact legislation that would increase the amount of energy available to us without taking some of the drastic steps that are in this bill. Four or 5 months remain before winter is over and I wonder whether there are other sources of energy as coal, electricity, or other sources.

Mr. FANNIN. Our position this winter depends both on the weather and on how much oil we are able to import. Both are difficult to predict, so I cannot give an answer at this time. But I will say that the research and development legislation I have mentioned will be helpful in devising a long-range program.

The Senator knows that coal is the greatest source of energy we have in this country. Forty-five percent of our proven reserves are coal. We also have geothermal energy which we are hoping to develop.

At Geyserville near San Francisco geothermal steam powers a plant producing 400,000 megawatts of electricity, which is one-half the consumption of the city of San Francisco.

Mr. WILLIAM L. SCOTT. Is there offshore oil that might be made available, or oil shale?

Mr. FANNIN. We are working on oil shale and many other energy sources.

Price is the factor. Price will produce the energy.

From the very beginning, I have tried to emphasize that if we freed up the price of natural gas, there would be more gas. If we increased the price of oil, there would be more oil. That applies to all our energy resources.

It is expensive to get oil from shale. It has been proven that it can be done, but at a price. With the increased price of imported oil, we may reach that point soon where it will be advantageous to develop oil shale.

Coal gasification is a possibility. But when we switch to different processes like coal gasification and liquefaction, we lose a great deal of the energy involved. Changing from one source to another source is always an expensive process. Therefore those are sources for the future. As far as immediate results are concerned—especially this winter—we know that is hopeless.

We do have some sources that we can develop rapidly. Deregulation of natural gas would lead to expanded supplies.

However, conservation is how we are going to get our immediate results.

Mr. WILLIAM L. SCOTT. I appreciate the ranking Republican member of the committee responding to this series of questions. I am trying

to make up my own mind as to how to vote on the final passage of the bill. We all know we have a serious energy problem, and I do not like to see us stay on a course of action which will result in further Federal regulation and a further breakdown in the American system of the law of supply and demand in the operation of the free market.

I simply wonder whether the emergency is of such a nature that we have to jeopardize the operation of the free market, so that it will perhaps be years before we have an adequate level of supply and demand; whether we are actually slowing down the process of obtaining adequate energy to meet the needs of the Nation by enacting this legislation. Will the Senator comment on the long-range effect of the bill?

Mr. FANNIN. The bill is for a 1-year period, but we are hoping that programs will be started that will continue. I certainly agree that a free market would be a better answer than the one we have provided in many places in the bill. But we have not been able to have such provisions added to the bill.

We must tie this program into R. & D. and other long-range legislation.

Mr. WILLIAM L. SCOTT. When the Senator speaks of conservation, he is speaking of the insulation of homes, the reduction in the speeds of automobiles, turning down thermostats, and perhaps burning wood in fireplaces, if there are fireplaces in the homes, and other such measures?

Mr. FANNIN. The Senator is correct.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's responding to these questions, and I also appreciate the courtesy of the Senator from Oklahoma (Mr. Bartlett) for yielding time.

Mr. FANNIN. I appreciate the great interest of the Senator from Virginia.

EXHIBIT 1

V. LEGISLATIVE HISTORY

S. 2589 was introduced on October 18, 1973, as a measure to prepare the Nation for severe impending fuel shortages. After the bill was introduced, the severity of the energy emergency was greatly increased by the actions of the Mideast-producing countries to reduce production and embargo shipments of oil to "unfriendly" nations.

The members and staff of the Senate Committee on Interior and Insular Affairs have been working closely together with the Committees on Commerce, Public Works, and Judiciary, and with the administration to expedite the adoption of this bill.

Two closed hearings were held with Governor Love and other administration officials on October 24 and November 1 to hear their views and suggestions for amendments to the bill. Following these hearings, extensive consultations were held with representatives of the administration to solicit their views on this legislation. Thus, although the administration did not formally submit to the committee suggestions for a draft bill, administration participation in the drafting of S. 2589, as reported, was such that the present bill is a composite of the S. 2589 as introduced, and suggested amendments proposed by the administration.

A public hearing was held on Thursday, November 8. The hearing began at 9:30 a.m. and adjourned at 8:30 p.m. Witnesses in the morning were representatives of the administration:

Hon. John A. Love, Director, Energy Policy Office.
 Hon. John N. Nassikas, Chairman, Federal Power Commission.
 Hon. John A. Buserud, Acting Chairman, Council on Environmental Quality.
 Hon. Kenneth H. Tuggle, Acting Chairman, Interstate Commerce Commission.
 Hon. Stephen A. Wakefield, Assistant Secretary for Energy and Minerals, Department of the Interior.

Mr. Thomas Heye, Administrative Assistant to the Chairman, Civil Aeronautics Board.

Mr. Julius Katz, Deputy Assistant Secretary for International Resources and Food Policy, Department of State.

Mr. Hugh Witt, Deputy Assistant Secretary for Installations and Logistics, Department of Defense.

Industry representatives and public witnesses were heard in the afternoon.

Mr. Richard Ayers, Attorney, National Resources Defense Council.

Mr. Carl E. Bagge, President, National Coal Association.

Mr. W. Donham Crawford, President, National Association of Manufacturers.

Mr. P. N. Gammelgard, Senior Vice President for Environmental and Public Affairs, American Petroleum Institute.

Mr. David Hawkins, Friends of the Earth.

Mr. Douglas E. Kenna, President, National Association of Manufacturers.

Mr. John C. Miller, President, Independent Petroleum Association of America.

Mr. Lawrence I. Moss, President, Sierra Club.

Hon. Lee C. White, Chairman, Energy Policy Task Force, Consumer Federation of America.

Public markup sessions on the bill were held on Friday, November 8, and Monday, November 11, with representatives of the administration present to respond to questions concerning the administration's position on the bill and proposed amendments.

Mr. BARTLETT. Mr. President, I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 17, line 15: Strike the words "operating hours" and substitute the words "energy consumption."

Mr. BARTLETT. Mr. President, the present language in S. 2589 gives authority to the President to place limitations on the operating hours of commercial establishments in public service as well as in schools.

My amendment would change the authority to place limitations on the operating hours to limitations on energy consumption, which is certainly the goal of the bill.

Having limitations on operating hours could result in a real inconvenience to patrons of commercial establishments which are open at night and which operate for the convenience of customers at night.

Also, if the President placed limitations on the operating hours of public schools, that could cause a definite inconvenience to students and to parents, as well.

The real intent of the provision is to have the reduction on the basis of energy, with limitations to be fixed by the President, designating the amounts of energy to be used by commercial establishments and public institutions such as the public schools.

I believe this is a good amendment. I understand that it is acceptable. I call upon Senators to support it.

Mr. JOHNSTON. Mr. President, the amendment is agreeable to the committee. I think it marks a needed flexibility in the bill. As originally drafted, the bill required that the President limit operating hours of commercial establishments. [Sec. 302(b)(2).] This change requires that he provide for energy conservation, which in turn will give some needed freedom to the owners of commercial establishments as to how they can conserve.

The President can mandate, for example, a 25 percent conservation of energy based on a base period and require that the owner of the store, or whatever the establishment is, come up with his own plan.

The conservation would not be voluntary. The conservation would be mandatory, but the means by which the conservation was affected would be at the discretion of the store owner—subject, of course, to the fact that if the store owner or establishment owner failed to come up with a voluntary plan, it would be implicit in the Senator's amendment that the President have the power to dictate the terms by which the conservation should take place—that is to say, if the owner, himself, would not come up with a voluntary plan.

Do I correctly understand the Senator's amendment?

Mr. BARTLETT. The Senator certainly does understand it correctly.

I should like to add that I have been informed by operators of commercial establishments that operating at night does not require any more energy than operating in the daytime. They would be willing to adjust their hours as they would have to adjust them, but they would have the discretion as to when they would be open, so that they could provide as much service as they possibly could to the customers they now have.

This amendment would give them flexibility but still would enable them to operate in such a way as to save energy and at the same time offer a good service to the customers.

Mr. JOHNSTON. I congratulate the distinguished Senator from Oklahoma for offering the amendment. We have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 669

Mr. FANNIN. Mr. President, I call up my Amendment No. 669.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered: and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 29, insert the following new section after line 7, and renumber subsequent sections accordingly:

SEC. 306. INJUNCTIVE RELIEF.—The United States district courts for the districts in which a violation of this Act or regulations or orders issued pursuant thereto occur, or are about to occur, shall have jurisdiction to issue a temporary restraining order, preliminary or permanent injunction to prevent such violation. Such injunction may be issued upon application of the Attorney General in compliance with the Federal Rules of Civil Procedure.

Mr. FANNIN. Mr. President, this is an injunctive relief amendment. It would be inserted on page 29, after line 7. It would be numbered section 306, and the numbers of the following sections would be changed accordingly.

The amendment provides that the U.S. district courts for the districts in which a violation of this act or the regulations or orders issued pursuant thereto occur, or are about to occur, shall have jurisdiction to issue a temporary restraining order, preliminary or per-

manent injunction to prevent such violation. Such injunction may be issued upon application of the Attorney General in compliance with the Federal Rules of Civil Procedure.

The amendment would provide relief where it is required prior to an actual violation. I think it is necessary in order that the proper procedures can be followed. The Government might be aware of an intended violation and could act accordingly.

I hope the distinguished manager of the bill will accept the amendment.

Mr. JOHNSTON. Mr. President, as we understand the amendment, it would give additional remedies to the President—the power to seek temporary or permanent injunctive relief. It is not in lieu of criminal penalties; it is not in lieu of other sanctions provided in the act, but is in addition thereto.

Is that correct?

Mr. FANNIN. The Senator is correct.

Mr. JOHNSTON. With that understanding, we enthusiastically support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that an anti-trust amendment submitted today by Senator Jackson and supported by the committee be considered on Monday; that the amendment be limited to 40 minutes, to be equally divided; that the amendment be considered immediately after the last matter for which time has previously been set or limited; that no amendments to the amendment be in order; and that the amendment be laid before the Senate as the pending business at the close of business today.

Mr. FANNIN. Mr. President, I ask unanimous consent that the name of the Senator from New York (Mr. Buckley) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the unanimous consent request of the Senator from Louisiana?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—I do not intend to object, of course—I just want to make sure that Senators understand what the distinguished Senator from Louisiana has said. He incorporated in his request that no amendment to the amendment would be in order.

I thank the Senator.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the Johnston amendment was adopted earlier today.

Mr. FANNIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 30, line 3, strike the word "fifteen" and insert in lieu thereof: "twenty".

On page 30, line 5, after the word "including" insert: "but not limited to independent".

On page 30, line 6, after the word "and" insert: "wholesale and retail".

Mr. DOLE. Mr. President, let me say at the outset that this amendment has been discussed with the majority and minority floor managers and with the distinguished junior Senator from Montana, who is the original sponsor of section 308.

Mr. President, any legislation which has the effect of placing governmental constraints on the free workings of our economy is bound to produce disruption, dislocation, and frequent unfairness in various sectors of the economy. The Emergency Energy Act, S. 2589, will if enacted establish perhaps the most extreme example of such governmental constraints in our history.

To some extent, the bill demonstrates a recognition of these potential effects by establishing a National Energy Emergency Advisory Committee in section 308. This committee would serve to advise the President "with respect to all aspects of implementation" of the act and its programs. The White House Energy Adviser would chair the committee, the other members of which are intended to represent the broad spectrum of those in Government and the private sector who are concerned with energy in America.

I feel this committee is a worthwhile and constructive attempt to establish a regular framework for receiving suggestions and criticisms directed at making a very difficult and complex program work as well, as effectively, and as fairly as possible.

However, the provision establishing the committee shows a rather important omission which I feel should be corrected. Quite correctly, the energy industry is specified for representation on the committee, including, to quote the bill, "producers, refiners, transporters, and marketers." And while I agree that these elements of the industry should be included, I feel the bill's language raises the possibility that an important sector of the energy industry might be overlooked or excluded from representation.

When we say energy industry many may think of the great multi-billion dollar integrated oil companies which receive such a large share of the attention and publicity surrounding energy issues today. But the fact is that the energy industry is composed of two chief categories of enterprises: the majors and the independents, and while not so widely known or large as the majors, these independents form a significant part of America's energy industry.

These two sectors are both highly concerned with the energy crisis and steps to deal with it, but they do have different viewpoints and face different circumstances in the conduct of their operations. Frankly, there are some areas where there is some conflict and disagreement between the two sectors, and it would seem highly inadvisable to run the risk of denying one the opportunity to see that its interests are at least aired before the committee and the President.

Both the majors and the independents would bring a great deal of knowledge, expertise, and ability to the committee. There is no question that majors should sit on the committee, but I believe it would be in the national interest to assure that independent producers, refiners, transporters, and marketers, both on the wholesale and retail levels, are not excluded from membership on the National Energy Emergency Advisory Committee.

Therefore, I offer an amendment to **section 308** to specify that these independent sectors of the energy industry be represented on the committee and that its membership be increased to reflect such additional representation.

I ask unanimous consent that the full text of **section 308** as amended by my amendment be printed in the Record at this point.

There being no objection, the section was ordered to be printed in the Record, as follows:

Sec. 308. NATIONAL ENERGY EMERGENCY ADVISORY COMMITTEE.—(a) There is hereby created a National Energy Emergency Advisory Committee which shall advise the President with respect to all aspects of implementation of this Act. The chairman of the committee shall be the Director of the Office of Energy Policy. In addition to the chairman, the committee shall consist of twenty members appointed by the President, who shall represent the following interests: energy industry, including but not limited to independent producers, refiners, transporters, and wholesale and retail marketers; transportation; industrial energy users; small business; labor; agriculture; environmental; State and local government; and consumers.

(b) The head of each of the following agencies shall designate a representative who shall serve as an observer at each meeting of the advisory committee and shall assist the committee to perform its advisory functions;

(1) the executive departments as defined in section 101 of title 5, United States Code;

(2) Interstate Commerce Commission;

(3) Atomic Energy Commission;

(4) Federal Power Commission;

(5) Federal Trade Commission;

(6) Civil Aeronautics Board; and the

(7) Federal Maritime Commission.

Mr. JOHNSTON. Mr. President, the amendment is acceptable to the committee, and we support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 1, line 16, immediately before "and", insert a comma and the following: "that under any such fuel rationing plan or program, handicapped persons dependent upon private transportation by reason of their handicapped condition shall receive an adequate supply of fuel to meet their business and essential personal activities needs,".

On page 16, line 17, immediately after the period add the following: "As used in the preceding sentence, an individual shall be deemed to be handicapped if he suffers from a medically determinable physical, mental, or developmental condition, by reason of which he is precluded, as a practical matter, from utilizing local public transportation facilities.".

Mr. DOLE. Mr. President, on behalf of myself and the Senator from New York (Mr. Javits), we have been discussing, of course, many aspects of the national energy emergency and the pros and cons of the bill before the Senate. I recognize the difficulty in trying to make special provisions for those who may be handicapped, the elderly, or those who for one reason or another deserve some special classification.

As is well known, many handicapped individuals do not have access to public transportation. The obstacle a bus or train represents to a person bound to a wheelchair, for example, is obvious and needs no

elaboration. The need for barrier-free public transportation for the handicapped has been a subject of many discussions. Although progress is being made in this direction, the need exists to insure that during this period of fuel shortage, handicapped people who are unable to use public transportation will receive sufficient fuel to continue using the private transportation necessary for their essential activities.

Furthermore, the lack of fuel for private transportation could represent an undue hardship for many handicapped persons who do not necessarily find barriers in public transportation. An inadequate allotment of fuel could force amputees and similarly handicapped people to walk distances which, though short for able-bodied people, could be impossibly long for the disabled. Handicapped workers hold many important jobs. We must insure that they have sufficient fuel for the transportation necessary in the conduct of their businesses or to get to their places of work.

Handicapped persons also depend upon private transportation more than other people in the conduct of their essential personal affairs. To deny them of this conveyance would be an unfair discrimination.

Mr. President, I proposed an amendment to the National Emergency Energy Act of 1973 to insure that under any fuel rationing program, handicapped persons dependent upon private transportation receive an adequate supply of fuel for business and essential personal activities.

Mr. President, I have discussed the amendment with the managers of the bill on both sides. I understand it might not be practical from the standpoint of legislation but I think there is agreement that this group might have special consideration in those plans.

Mr. JOHNSTON. Mr. President, the Senator is correct. It is the intention and the wish of the Committee on Interior and Insular Affairs that handicapped people be granted the highest priority under any rationing system. We did not include it in the legislation because we thought this discussion could be presented to the President, and that we would not try to set out a schedule of priorities of who would be treated in a schedule of priorities in the legislation itself. We suggest that the matter be referred to the President with our very strong request that handicapped people be given the kind of priority that is proposed in the amendment of the Senator from Kansas.

The PRESIDING OFFICER. Is the amendment withdrawn?

Mr. DOLE. Yes; Mr. President, with that assurance and, I assume, with the same assurance from the ranking minority member, I withdraw the amendment.

Mr. FANNIN. I am pleased to give that assurance.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. FANNIN. I thank the distinguished Senator from Kansas.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. FANNIN. Mr. President, I call up my amendment No. 668.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

On page 20, line 4, insert the following after the word "coal.": "In areas where at that time the utilization of coal can reasonably be anticipated, the President may require that fossil fuel fired baseload electrical powerplants now in the planning process, other than combustion turbine and combined cycle units, be designed and constructed so as to be capable of rapid conversion to burn coal."

Mr. FANNIN. Mr. President, this particular amendment provides that:

In areas where at that time the utilization of coal can reasonably be anticipated, the President may require that fossil fuel fired baseload electrical powerplants now in the planning process, other than combustion turbine and combined cycle units, be designed and constructed so as to be capable of rapid conversion to burn coal.

The reason for the amendment is that combustion turbines cannot be constructed and designed so as to be capable of rapid conversion to burn coal. There is no reason to provide for something that cannot be done in accordance with the goals of this particular legislation, which is an emergency energy bill. **[Sec. 204(a).]**

I do feel we must move to coal as rapidly as possible. I feel the amendment is beneficial so far as the legislation is concerned. It is a clarifying amendment which would make it possible to accomplish the objectives that are involved in the provision preceding the amendment.

I trust the manager of the bill will be willing to accept the amendment.

Mr. JOHNSTON. Mr. President, we have no objection to the amendment.

Mr. FANNIN. I thank the distinguished Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I also send to the desk for inclusion in the Record at this point an appendix describing the contents of the amendment which I have just sent to the desk and which I think will be helpful to the Senate in reviewing this amendment which is currently scheduled to be the first one considered by the Senate on Monday morning. In essence, the amendment is the amendment I offered several days ago with some modifications which make it more consistent with the thrust of the bill as it presently stands.

There being no objection, the material was ordered to be printed in the Record, as follows:

CONTENTS OF MATHIAS-ERVIN AMENDMENT IN THE FORM OF A SUBSTITUTE TO
SECTION 309 OF S. 2589

1. This amendment would continue to apply the requirements of Section 553 of Title V of the United States Code: the provision of the Administrative Procedures Act governing rulemaking, but would restrict the discretion of the authority implementing the Act to waive those provisions. One of the chief difficulties of our current experience with Section 553 of the Administrative Procedures Act

is the wide latitude available for waiving its requirements. Subsection (b) (1) of my proposed amendment would require a minimum of 5 days notice with an opportunity for comment on all proposed rules, regulations or orders issued pursuant to the Act. This requirement could not be waived unless findings are made that such time period would cause grievous injury to the operation of the Program and those findings would have to be set out in detail. Too often, Federal agencies employ boiler-plate language to waive the requirements of Section 553 of the Administrative Procedures Act because to do so is more convenient. Convenience would not be an adequate standard under my amendment.

2. This amendment provides a mechanism whereby proposed rules, regulations, or orders establishing plans or programs at the state level can be disseminated at that level. While the proposal is unusual in Federal legislation, it is common to many state laws and is, in my judgment, necessary in this case since states and metropolitan areas will be called upon to implement the Federal program.

3. This amendment contains additional hearing requirements not imposed by Section 553 of the Administrative Procedures Act. Subsection (b) (3) of the amendment would require a public hearing on rules, regulations or orders which are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses or when such hearings would serve to inform the public or aid in obtaining information on actions taken or proposed to be taken.

Such hearings would, to the maximum extent practicable, be held prior to the implementation of any rule, regulation, or order. However, where this is not possible, but where the statutory criteria are met, the amendment provides that hearings shall be held no later than sixty (60) days after the implementation of any such rule, regulation, or order. The premise is that review, even after the program is underway, is better than no review at all. This provides a mechanism for modifying measures which may have been taken under emergency circumstances and an opportunity to re-evaluate as soon as possible thereafter. Since the actions that could be taken under the authority of this Act could cause great hardship and destroy businesses, and delay beyond sixty (60) days is not justified.

4. Subsection (c) (1) of the proposed amendment establishes certain requirements suggested by my review of the Cost of Living Council. One of the chief difficulties with the wage/price program is the public's inability to obtain information on the activities of the Cost of Living Council. Similar difficulties can be anticipated with the agencies administering the Energy Act. Subsection (c) requires the publication of all internal rules and guidelines which may form the basis in whole or in part for any rule, regulation or order and prevents the Agency from relying upon or using any such internal rule or guideline that has not been published in support of its action. I believe that the public should be fully apprised of the criteria upon which decisions are being reached and that all such information must be made widely available. Without such a provision, parties who think they might be entitled to an exception or an exemption are at a total loss in reaching their determination about whether to apply. They can have no confidence about the information they submit in support of their petition or in the result of the process, a grant or denial.

Similarly, the Agency should be required to set forth written opinions in support of its grant or denial of petitions in a form that will give them precedential value to apprise the regulated of their rights and obligations, to ensure consistency of decisions, and to limit unfettered Agency discretion.

Subsection (c) (2) adopts the Bentsen Amendment to subsection (b) of Section 309 of the bill as reported. The Bentsen Amendment has been accepted by the Senate.

5. Subsection (d) (1) of my amendment would require findings of fact and a specific statement explaining the rationale for each provision of plans or programs set forth under the authority granted by this Act. The Government has an obligation to explain the basis of its actions.

6. Subsection (d) (2) of my amendment looks to the future. It would require, at the outset, that each plan or proposal include proposed procedures for the removal of restrictions that it would impose. The time to begin planning for the future is now and Subsection (d) (2) would build this planning into the current process.

7. Subsection (d) (3) of my amendment would require the preparation of a schedule for implementing the requirements of Section 552 of Title 5 of the United States Code at the outset. Without rapid implementation of these requirements, the Program could quickly become unmanageable. Section 552 is one of

the chief vehicles for disseminating information to the public and in a program as vast in scope as that proposed in S. 2589, the implementation of those provisions deserves special attention.

S. Subsection (d) (4) would require the immediate preparation and publication of definitions of terms used in the Act. Such definitions will be helpful in giving meaning to any terms used in the Act.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I offer an amendment to section 303 of the bill, as amended by the Nunn amendment. I call up my amendment No. 663, as modified for consideration.

Mr. ROBERT C. BYRD. Mr. President, what was that request?

The PRESIDING OFFICER. Is this an amendment to the pending measure or to one of the bills we have just passed?

Mr. TAFT. Mr. President, it is an amendment to the pending measure.

The PRESIDING OFFICER. The amendment as modified will be stated.

The second assistant legislative clerk read as follows:

After section 302 (d) add the following:

(D) any controls instituted shall be insofar as practicable, equitably applied to all businesses, whether large or small; and due consideration shall be given to the unique problems of retailing establishments and small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act.

Mr. TAFT. Mr. President, this amendment I think is a noncontroversial one. It simply expresses a general direction with respect to the small business and retail establishments insofar as the pending bill is concerned.

The PRESIDING OFFICER. The Chair will interrupt the Senator to state that since this is an amendment to an amendment that has already been agreed to, the Senator must have unanimous consent to consider the modification at this time.

Mr. TAFT. Mr. President, I ask unanimous consent that I be permitted to have my amendment considered at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I have no desire to object but I inquire as to whose amendment this would amend.

Mr. TAFT. This amendment would amend the amendment of the Senator from Georgia (Mr. Nunn).

I also ask unanimous consent that the name of the Senator from Georgia (Mr. Nunn) be listed as a cosponsor of the modification.

Mr. ROBERT C. BYRD. Mr. President, continuing to reserve the right to object, may I ask the distinguished sponsor of the amendment if this request has been cleared with the distinguished junior Senator from Georgia?

Mr. TAFT. The Senator from Georgia requested that he be listed as a cosponsor, and the request has been cleared with the Senator.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, this amendment would add to subsection b. a clause 4. saying: "any controls instituted shall be insofar as practicable, equitably applied to all businesses, whether large or small; and due consideration shall be given to the unique problems of retailing establishments and small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act."

The National Energy Emergency Act of 1973 provides that the rationing and conservation program provided for shall include measures capable of reducing energy consumption in the affected areas by no less than 10 percent within 10 days and by no less than 25 percent within 4 weeks after implementation. [Sec. 102(g).] Several examples are mentioned, including lighted advertising, and limitations on operating hours of commercial establishments.

In passing judgment on this legislation, it is recognized that there may be hardships during this energy emergency, but with the proper cooperation of State and local governments and the public, hopefully no one sector of the economy will bear a disproportional share of the burden.

The suggestion in this legislation that limitations may be placed on the operating hours of commercial establishments, has caused concern among many owners of small shops and businesses, such as neighborhood grocery stores, which depend largely upon after-hour trade for survival. [Sec. 203(b)(2).]

The purpose of my amendment, therefore, is to insure that these small businesses be given equal consideration in implementation and administration of the conservation measures to reach our goals. This is not to say that anyone should be totally exempted from cooperation in saving our energy, for we all must work together. However, in implementing the act, it would seem to be possible to avoid causing undue hardship to any one sector of the economy.

This same provision of the bill, cutting back energy consumption by 25 percent within 4 weeks after implementation, raises another question. [Sec. 102(g).]

Would this provision mean that on-premise identification signs which are electrically lighted would be curtailed by 25 percent? As I understand it, there are two kinds of signs involved in this category. These are fluorescent signs, which are illuminated by fluorescent tubes, similar to those in our offices, and neon signs fed through current reducing transformers. These signs are important to the retail merchants who are highly dependent upon them. In some cases they take the place of store windows. In others, they identify the location to a motorist moving at 25 or 50 miles an hour on the street or highway. In any event, they are valuable to the storeowners who would be severely hurt if their use were to be curtailed.

I urge that efforts be made in implementation so that the small firm will not bear the burden or discriminatory brunt of the necessary controls on energy usage. In addition, measures should be taken so that possible materials shortages resulting from energy shortages are not proportionately greater for small firms.

Mr. JOHNSTON. Mr. President, I think this is an excellent amendment that significantly improves the bill, and the committee supports the bill.

Mr. FANNIN. Mr. President, I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment as modified is agreed to. The bill is open to further amendment.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. In accordance with the previous order, the Chair now lays before the Senate the amendment of the Senator from Washington (Mr. Jackson), No. 685, without objection, the text of the amendment will be printed in the Record.

The amendment reads as follows:

AMENDMENT No. 685

Add a new Section 101(h) after line 2, at page 14, as follows:

"(h) the protection and fostering of competition and the prevention of anti-competitive practices and effects are vital during the energy emergency."

Add a new Section 102(h) after line 6, at page 15, as follows:

"(h) insure against anticompetitive practices and effects and preserve, enhance, and facilitate competition in the development, production, transportation, distribution and marketing of energy resources."

Add a new Section 312 after line 8, at page 33, as follows, and redesignate the remaining sections:

"SEC. 312. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsections (f) and (k), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" includes—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) The President shall develop plans of action and may authorize voluntary agreements which are necessary to achieve the purposes of this Act and which encourage and facilitate cooperation and voluntary agreements between (1) the Federal Government, and (2) appropriate segments of the petroleum industry and interested and concerned labor, consumer, and other essential groups. These plans of action and voluntary agreements may be regional in nature or may address functional aspects of the nation's petroleum system.

(d) (1) To achieve the purposes of this Act the President may, in addition to the National Energy Advisory Committee established by section 308 of this Act, provide for the establishment of interagency committees and such additional advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. 1) and shall in all cases be chaired by a regular full-time Federal employee.

(2) An appropriate representative of the Federal Government shall be in attendance at all meetings of any advisory committee or any interagency com-

mittee established pursuant to this Act. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and, subject to existing law concerning national security and proprietary information, shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

(e) The Attorney General and the Federal Trade Commission (1) shall participate in the preparation of any plans of action or voluntary agreement and may propose any alternative which would avoid or overcome, to the greatest extent practical, any anticompetitive effects while achieving the purposes of this Act, and (2) shall have the right to review, amend, modify, disapprove or prospectively revoke any plan of action or voluntary agreement at any time if they determine such plan of action or voluntary agreement is contrary to the purposes of this section, or not necessary to achieve the purposes of this Act.

(f) Whenever it is necessary, in order to achieve the purposes of this Act, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, defining, marketing, or distributing crude oil or any petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so and have the benefit of the defense provided for in subsection (k) if such meeting, conference, communication or course of action is conducted in compliance with the provisions of this section and solely for the purpose of achieving the objectives of this Act.

(g) (1) The Attorney General may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (d) (1) and (3) where such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of carrying out and implementing a plan of action or a voluntary agreement which has been prepared and approved pursuant to this section.

(2) Any meetings, conferences, or communications exempted from the requirements of subsections (d) (1) and (3) shall be undertaken in accordance with regulations promulgated to implement this section. These regulations shall provide that a log or memorandum of record of any meeting, conference, or communication covered by this subsection (g) (1) shall be prepared and filed with the Assistant Attorney General in charge of the Antitrust Division and the Federal Trade Commission.

(h) The President is authorized to delegate the authority provided for in section 312 (c) and (d) (1) to a Federal officer appointed with the advice and consent of the Senate. The President shall issue regulations governing the operation and implementation of this section 312 (c) and (d).

(i) No provision of this section is intended to supersede, amend, repeal, or modify any provision of the Defense Production Act of 1950, as amended, except that the provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the authority contained in the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973).

(j) This section 312 shall apply to the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973) notwithstanding any inconsistent provisions of section 6(c) of that Act.

(k) There shall be available as a defense to any civil or criminal action brought under the antitrust laws arising from any course of action or from any meeting, conference, or communication or agreement held or made in compliance with the provisions of this section solely for the purpose of carrying out a plan of action, voluntary agreement, or otherwise undertaken solely to comply with the requirements of this section.

(l) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way effecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act; (2) outside the scope and purpose of this Act and this section or (3) subsequent to its expiration or repeal.

(m) (1) The Attorney General and the Federal Trade Commission are charged with responsibility for monitoring the implementation of any plan of action,

voluntary agreement, regulation or order approved pursuant to Section 312 to determine compliance with the purposes of Sections 101(h) and 102(h) of this Act.

(2) In furtherance of this responsibility, the Attorney General and the Federal Trade Commission will promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to implementation of any plan of action voluntary agreement, regulation or order approved under this Act.

(3) Persons implementing any program, plan of action, voluntary agreement, regulation or order approved under this Act will maintain these records required by joint regulations promulgated pursuant to subsection (1) above, and they shall be available for inspection by the Attorney General and the Federal Trade Commission at reasonable times and upon reasonable notice.

(n) The exercise of the authority provided in Section 204(b) (1) shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing an opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

**SENATE DEBATE AND PASSAGE OF S. 2589,
NOVEMBER 19, 1973**

NATIONAL ENERGY EMERGENCY ACT OF 1973

The **PRESIDENT pro tempore**. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 2589, which the clerk will state.

The second assistant legislative clerk read as follows:

S. 2589, to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. **MANSFIELD**. Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT pro tempore** (Mr. Metcalf). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **JACKSON**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT pro tempore**. Without objection, it is so ordered.

Under the previous order, 10 minutes will now be given to colloquy between the Senator from Washington (Mr. **JACKSON**) and the Senator from Colorado (Mr. **Haskell**).

Mr. **HASKELL**. Mr. President, I should like to discuss two matters relating to S. 2589 with the distinguished Chairman of the Committee on Interior and Insular Affairs.

The first one appears on page 19 of the bill. **Section 204(a)** states that the President, in accordance with the rationing and conservation program required by **section 203**, after balancing on a plant-by-plant basis the environmental effects of a conversion, may order an oil or a gas burning installation to convert to coal.

I should like to ask the chairman of my committee, the distinguished floor manager of the bill, whether, as he understands it, this conversion would be subject to the overall plan of conversion and therefore the public health requirements of **section 203(b)(1)** would apply.

Would this be the Senator's understanding?

Mr. **JACKSON**. The Senator is correct. That is an accurate conclusion, based on the language of the statute, and it is my understanding.

Mr. **HASKELL**. And our intent.

Mr. **JACKSON**. Yes. My understanding and the intent of the sponsors of the measure.

Mr. **HASKELL**. The other matter to which I invite the distinguished Senator's attention appears on page 17 of the bill, on line 13. Among other actions that the President may direct to conserve energy is "a

ban on all advertising encouraging increased energy consumption.”
[Sec. 203(b)(2).]

It seems to me that, on the one hand, this could be taken as intending to ban advertising of anything that happens to consume energy. That is not our intention. On the other extreme, it certainly could and should be taken as intending to ban advertising to convert your home to totally electrically heated and operated homes. The cases between the two extremes will have to be taken care of by regulation and on a case-by-case basis.

Would the Senator agree that I have stated to the two extremes properly?

Mr. JACKSON. The able Senator from Colorado has stated it well.

The first amendment, of course, still applies. We have not done anything to that. In between, it is an obvious area in which I think the Government can lay down certain requirements. This to avoid the possibility of a course of conduct that will result in such a profligate use of energy that it is against the public interest to do so.

Mr. HASKELL. I agree with the Senator.

I assume the Senator might concur with me that it would be very unwise for us to try to spell out in the statute all the gradations between those two cases.

Mr. JACKSON. The Senator is correct. I believe this can be handled by sensible rules and regulations. I hope that commonsense will be the guiding light of those who promulgate the rules.

What we intend is clear. We are trying to call upon all our citizens to follow a course of conduct that will lead to a reduction in the use of energy. Our emphasis is on that course of conduct which would indicate that there is a careless disregard for obvious rules of conservation. I believe that some of these things should have been put into effect even if we had not been confronted with the immediate crisis.

There is a great need in this country, Mr. President, to get off the energy binge. I am told that the two big Trade Towers in downtown Manhattan, with their lights on all night, consume as much energy as is consumed by the entire city of Syracuse. This does not make sense. I just cite that as an illustration. All these huge, new skyscrapers that are going up, permitting their lights to operate 24 hours a day do not make sense at a time when our citizens, regardless of what some are saying, are going to face rationing.

It is this sort of thing, it seems to me, that we must deal with, and deal with promptly. I am sure that my colleague and good friend, the Senator from Colorado, would agree with that general conclusion.

Mr. HASKELL. I agree heartily.

I thank the Senator, and I yield back the remainder of my time.

Mr. JACKSON. I thank the Senator. I think his questions should be helpful in clarifying the record, and I appreciate his putting these questions to the Senate.

AMENDMENT NO. 686

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the amendment by the Senator from Maryland (Mr. Mathias), on which debate is limited to 30 minutes, to be equally divided and controlled.

Which amendment is the Senator calling up?

Mr. MATHIAS. I call up my amendment No. 686.

The ACTING PRESIDENT pro tempore. The amendment will be stated. The legislative clerk proceeded to read the amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 30, beginning with line 21, strike out all through line 20 on page 31, and insert in lieu thereof the following:

SEC. 309. ADMINISTRATIVE PROCEDURE IN ORDER TO INSURE ACCOUNTABILITY AND DUE PROCESS.—(a) The functions exercised under this Act are excluded from the operation of subchapter 2 of chapter 5, and chapter 7 of title V, United States Code, except as to the requirements of sections 552, 555 (c) and (e), and 702 and except as to the requirements of section 553 as modified by subsection (b) of this section.

(b) All rules, regulations, or orders promulgated pursuant to this Act shall be subject to the provisions of section 553 of title V of the United States Code except that all rules, regulations, or orders promulgated must provide for the following:

(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this Act in the Federal Register. In each case, a minimum of five days following such publication shall be provided for opportunity to comment.

(2) Public notice of all rules, regulations, or orders promulgated by a State pursuant to section 203 of this Act shall be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) Any agency authorized by the President or by this Act to issue rules, regulations, or orders under sections 203, 204, 205, 206, 207, and 312 of this Act shall hold public hearings on those rules, regulations, or orders which are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses or when such hearings would serve to inform the public or aid in obtaining information on actions taken or proposed to be taken. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than sixty days after the implementation of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

Any agency authorized by the President or by this Act to issue rules, regulations, or orders may not waive any of the requirements set forth in this subsection except that the requirements set forth in subsection (b) (1) as to time of notice and opportunity to comment may be waived where strict compliance is found to cause grievous injury to the operation of the program and such findings are set out in detail in the rules, regulations, or orders.

(c) (1) In addition to the requirements of section 552 of title V of the United States Code, any agency authorized by the President or by this Act to issue rules, regulations, or orders shall publish in the Federal Register all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order. Such agency shall also support any grant or denial of a request for exception or exemption from rules, regulations, or orders with a written opinion setting forth its findings of fact and conclusions of law in support of such grant or denial. Such opinions shall be published with such modifications as are necessary to insure confidentiality of information protected under the Freedom of Information Act.

(2) Any agency authorized by the President to issue rules, regulations, or orders under this Act shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the

preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(d) All proposals which the President submits for the approval of the Congress pursuant to section 301 of this Act and subsequent amendments and modifications thereto for the emergency fuel shortage contingency programs provided for in title II of this Act and for implementing such programs shall include the following:

(1) findings of fact and a specific statement explaining the rationale for each provision contained in such proposals,

(2) proposed procedures for the removal of the restrictions imposed by such plan or program.

(3) a schedule for implementing the provisions of section 552 of title V of the United States Code, and

(4) administrative definitions of the terms used in this Act.

Mr. MATHIAS. Mr. President, I should first like to express my personal appreciation to the distinguished Senator from Washington for the leadership he has shown over the problem of energy. As the Senator from Washington well knows, the problem of energy is not something which has suddenly burst upon us. It is a problem which has been developing; it is a problem which has been perceptible; it is a problem in which Members of Congress have exhibited concern and interest.

Among the agencies of Government that have been charting the development of this problem is the Atomic Energy Commission, and they have made very clear projections of the growing shortage of energy in relation to the growing demand for energy. I think the Senator from Washington, as well as other Members of both the Senate and other body have exhibited constructive interest in this problem, and I only regret that it took the convulsion in the Middle East to dramatize it to the point that we now have the sufficient focus of attention that we can do something about it. I wish there had been a greater interest on the part of other centers of influence in the country, a greater interest in resolving the problem, before we got to the point at which we are now.

To cite one example, I have been very disappointed that we have heard so little from Detroit during this debate. It would be very heartening to me if we had reports from the leaders of the automobile industry that an efficient, economic small car was about to be produced in America—the best in the world. I hope that is the case. I hope we will get some assurances from the leaders of the automobile industry in Detroit that America, instead of building bigger automobiles that consume more gas per mile, will soon be building the most efficient automobiles and giving the Americans the greatest mileage per gallon.

I do not know whether the Senator from Washington has had any assurances of that sort with which he can encourage the Senate this morning.

Mr. JACKSON. The Senator is referring to—

Mr. MATHIAS. Plans of the automobile industry for more efficient automobiles; plans that give us some hope for the future that Americans could have the most efficient automobiles in the world—which I believe American automotive genius is capable of.

Yet I have seen very little evidence of that rapidly evolving. I think the silence from Detroit has been deafening during the past month or so.

Mr. JACKSON. The Committee on Interior and Insular Affairs has reported a conservation bill calling on the Department of Transportation to come up with a program which will result in two things: Clean air and better gasoline mileage. How they do that is up to them. There have been many arguments about horsepower: that we ought to reduce the size of automobiles, reduce the horsepower, which I certainly think is a necessity. Others say we can still have a larger automobile and save fuel.

One mistake we have made that we should recognize, is that in our quest to get clean air we ignore the price we are paying in the consumption of gasoline. The result has been that we are getting cleaner air as a result of a greater consumption of gasoline.

No attention was paid to the conservation problem when we were looking at the clean air problem. This means that at the present time we face the obvious problem of having to do both.

It seems to me that the industry can do a lot better. I notice that the Japanese have been able to come up with an engine that really does something about pollution and at the same time provides good mileage. Those are the twin objectives. We were on a single purpose objective before.

I submit we now have to move on the dual purpose. The bill reported was cleared by both of the committees, and it is now on the calendar. So we will be voting on that whenever we get through with some of these other matters.

Mr. MATHIAS. I agree with the Senator from Washington that we have to face in a comprehensive fashion the problems that are involved. I think it is a great pity that mileage, miles per gallon in modern automobiles, is so much less than those automobiles of 10 and 20 years ago. The problem of the antipollution devices is not the sole reason for this. But during the past weekend the blame has been lack of leadership. I believe we would be better off if everyone who has a position of responsibility would begin to exercise that leadership.

Mr. President, I would like to offer my amendment. It is designed to insure that two principles basic to the fair administration of law are made an integral part of the bill. Accountability for action taken or not taken and due process for all are the cornerstones of our Government.

Insuring that these principles guide the administration's efforts to deal with present and future energy shortages is of special importance at this time. All Government, no matter what level, has suffered a severe crisis of confidence in recent months.

The tragic events of Watergate demonstrate that abuses of the public trust will occur when individuals believe that power is unchecked and that public officials will not be held accountable for their actions.

S. 2589 grants wide authority to the executive branch and consequently there exists an inherent danger that the discretion will be abused. Section 203 of the bill authorizes the President to establish a rationing and conservation program which will have the most profound effect upon American life. Decisions will have to be made as to what are nonessential uses. Little guidance is provided for making those decisions. Maybe we can agree upon certain types of outdoor advertising and recreational activities to be banned, but I assume, Senators, that even in this area there are types of outdoor advertising and

recreational activities of great importance to the people of this Nation. When choices are made, they will be difficult choices.

Bureaucrats will be making decisions on matters going to the very heart of our national life. Can we make a proper choice between indoor tennis and Monday night football; can we make a proper choice between bowling and car racing?

Choices will have to be made in other matters as well. Matters which will affect whole regions of the country, entire industries and the jobs of many Americans. When the President is asked to ban all advertising encouraging increased energy consumption, he is again faced with difficult, if not impossible, choices. Certainly there are ads which, all of us can agree, are out of step with the times. Advertisements which blatantly encourage the purchase or use of new energy wasteful gimmicks must be eliminated. But does this include one man's hi-fi set or another man's TV dinner? What about car advertisements? Should they all be banned? Is it appropriate to make a distinction between large and small cars; between cars using a lot of gasoline and cars which are designed to conserve gas? How will the rationing system deal with the rental car business; the taxicab industry; cities where commuting distances are great and mass transit inadequate versus those areas blessed with short commutes and good mass transit? Beyond these decisions lies the specter of regional conflict. Entire value systems will be placed in doubt.

By the terms of this bill, all the Federal agencies with any responsibilities over energy policy are mandated to take emergency measures to relieve the crisis. It is appropriate at this point to note that the Federal Government has over 50 offices, agencies, bureaus, and councils actively engaged in energy policy and that coordination in the past has been a severe handicap. The President has long advocated the consolidation of these various instrumentalities concerned with energy policies and I have supported him. Nevertheless, we have failed to act and little Federal coordination exists in this area. Maybe this Nation can survive such coordination problems when we operate at a normal pace. It goes without saying that the actions we take in the coming days and months to relieve our energy shortage will not be taken at that pace. The consensus in this body, in the other body, in the executive, and across the Nation is that "business as usual" in the energy field is no longer acceptable. I am concerned that this acceleration will exacerbate the lack of coordination at the Federal level to the point where the cure which we propose today will be worse than our illness.

Over the years, the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission have established a body of case law which, to a significant degree, insures a consistent and fair approach to regulation. S. 2589 could permit a great deal of that case law to be discarded. Energy may be the most pervasive influence upon our society today. We will by this bill create a code word to be used at all hearings before those agencies so long as the provisions of S. 2589 remain in force. The code word is "energy" and when it is spoken we can, as coaches, often remark "throw out the record book."

The Congress should be guided by our Nation's history. We have faced emergencies before and I predict we will face them again. Unfortunately, it is human nature when an emergency arises to underestimate the importance of the process created to solve the emergency.

Contingency planning becomes the order of the day. Unfortunately, such plans cancel, contradict, and reinforce each other by accident. Few are logically related to one another, and none to any overall image of what the future should be.

The scope of the problem we face today is not unprecedented. But to a great extent the solution we propose is without precedent. Our grant of authority to the Executive is virtually unlimited. The closest peacetime parallel which comes to mind is the grant of authority to the Cost of Living Council under the Economic Stabilization Act.

On October 9 and 10, I chaired hearings in the Subcommittee on Separation of Powers of the Judiciary Committee on procedural and due process problems that have arisen with the implementation of the wage/price program. Those hearings were prompted by an increasing outcry from the public that the program was not working and from those directly regulated complaining of the procedures employed by the Cost of Living Council.

During our hearings, we explored a number of these complaints which included the inadequacy of notice of actions being taken by the agency, the general unavailability of the guidelines and standards upon which the agency was basing its rulings, the lack of clear-cut precedential value of agency actions, the inconsistencies in agency decisions, the failure of the agency to consider factors that might have been taken into account with proper opportunity for input to the agency, and the unconscionable delays associated with agency actions.

During those hearings, we heard from witnesses who were representative of a broad cross section of the American public. We saw one of the more rare events on Capitol Hill: almost total agreement between a spokesman from Ralph Nader's organization and a spokesman from the prestigious law firm of Covington and Burling about the difficulties of the manner in which the program is being implemented. Not only is such an event rare, it is a cause for great concern because it is evidence of the almost universal unhappiness with the way in which the cost of living program is being run. A statement I made in announcing the hearings on the cost of living program bears repeating in the current context:

This much seems clear—no program will long retain, or deserve, popular support if its decisions are not arrived at by a process that appears open, fair, consistent, thorough, rational, enforceable, and necessary.

I offer my amendment because I am concerned that we are about to travel the same rough road with respect to energy policy that we have already trod with respect to economic policy. My concern is heightened by the fact that the bill as reported by committee contains a section, **section 309**, which addresses itself to the procedures to be employed by the new authority administering the act. This section is virtually identical to **section 207** of the Economic Stabilization Act, which has already proven itself inadequate in its current trial and gives no promise of any better result when applied to the comparable problems presented by the program we are undertaking today.

I should add that **section 207** of the Economic Stabilization Act was itself a vast improvement over the original authority to control wages and prices which had no procedural safeguards. I note this not only by way of commending the members of the Senate Committee on Banking and Currency, which added **section 207** to an act that had

previously been totally devoid of any procedural safeguards, but to indicate the extent to which Congress is feeling its way along in uncharted waters.

Authority as broad and extensive as was provided in the Economic Stabilization Act, and as proposed in the bill before us today, raises questions that go beyond those normally raised by the administrative process. The amendment I propose today I believe to be a further step in the safeguarding of procedural rights. I believe that experience has shown that we must go beyond the model provided by the current Economic Stabilization Act and add additional safeguards and requirements to any authority that we delegate to S. 2589.

In the context of today's debate, the question which logically flows from our experience with the Cost of Living Council is whether the energy program will be better. I am pessimistic. In the past 2 months, I have written to Robert Plett, Administrator of the Mandatory Oil Allocation Program, Office of Oil and Gas, Department of the Interior, on five occasions and requested information on the application of regulations to various Maryland constituents: what steps were to be taken to insure petroleum products for the taxi industry; the diesel fuel shortage on the Eastern Shore of my State; whether the mandatory allocation system is to include foreign-based distributors; what steps were being taken to insure heating oil for Maryland school systems; and the continuing difficulties of small Maryland companies in getting their allotted quota of diesel fuel. I have received neither an acknowledgement nor a response to any of the inquiries, the most recent of which was October 25.

Members of my staff have called the Office of Oil and Gas on probably 15 occasions. They have talked to caseworkers, to the General Counsel, to congressional liaison personnel, and to the Regional Administrator, region III in Philadelphia.

Oil and Gas staff seem to agree on one thing, and that is that they do not know in what direction they are going. When asked specific questions, such as the ones outlined above, the response was, "We don't know." By their own admission, region III of the Office of Oil and Gas admitted that they did not know how the allocation program was supposed to work; that their concern as of November 8 was only those people who had no oil at all on that day. In other words, they had no plans that extended beyond 24 hours. The fact which stands out is that no one can give an answer to any sort of specific inquiry, despite the fact that there is in existence a mandatory allocation system.

My amendment is in the form of a substitute to section 309 of S. 2589. It would strengthen the committee version of that section in a number of specific instances.

The days ahead will be difficult; difficult for the Congress and difficult for those who must administer the final version of the legislation we pass today. This Nation's economy has been built on waste and we now realize that this cannot continue. In the past, oil has been considered a cheap commodity and consequently inefficient uses of it have proliferated. American cars are world leaders in inefficient gasoline consumption. The Europeans and the Japanese, for many years closer to the razor edge of oil scarcity, have produced more efficient, smaller cars to meet their people's needs. I can assure Senators that over-large,

gasoline-guzzling automobiles continue to roll down the assembly lines in Detroit. They were produced yesterday; they are produced today, and I am afraid that they will be produced tomorrow. S. 2589 sets our course and I am concerned that it is the wrong course. We rely in the first instance on a voluntary effort with all the drawbacks long associated with volunteerism. Waiting in the wings is a mandatory rationing program. We are asking the rationing program to deflect demands of the marketplace to efficient energy use and abstention. We may ask the impossible. The unseen hand of the marketplace is a powerful force; far more powerful than the regulatory framework that we can provide. Regulation only has a chance of success if we move quickly to enact the tough measures that will force the auto industry and the buying public towards producing and using smaller and lighter cars. We must consider whether a tax on high horsepower cars or indeed a tax upon gasoline itself may provide relief to the regulatory framework which we now propose. Over the past months Congress has received a number of proposed solutions to the short term aspects of the energy crisis. They can be divided into two categories—taxes or regulation. We now propose to regulate. We owe it to the American people to keep our minds open; to not chart an irreversible course. Our efforts cannot end with the passage of S. 2589. We must view the entire breadth of the economy to find the disincentives to conserve.

So, I think it especially important, Mr. President, that at this particular point in time we insure that the bill we pass will provide accountability and due process. John Buchan once said:

The hasty reformer who does not remember the past will find himself condemned to repeat it.

I have stated my doubts as to whether this program will work and I consequently feel that it is imperative that we enact measures that will insure that the results of administrative action are laid before the Congress in the near future. This kind of responsive accounting will do much to restore faith in government. It has been my experience through hearings held by the Subcommittee on Separation of Powers of the Judiciary Committee that if you expect to get hard information on the success or failure of an emergency program, you had better ask for it from the start and my amendment makes that request.

In order to make the amendment totally clear to Members of the Senate, I would at this time offer for the Record an appendix which is a summary of the provisions of the bill, and I ask unanimous consent that it may be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

APPENDIX.—CONTENTS OF MATHIAS-ERVIN AMENDMENT IN THE FORM OF A
SUBSTITUTE TO SECTION 309 OF S. 2589

1. This amendment would continue to apply the requirements of Section 553 of Title V of the United States Code: the provision of the Administrative Procedures Act governing rulemaking, but would restrict the discretion of the authority implementing the Act to waive those provisions. One of the chief difficulties of our current experience with Section 553 of the Administrative Procedures Act is the wide latitude available for waiving its requirements. Subsection (b) (1) of my proposed amendment would require a minimum of 5 days' notice with an opportunity for comment on all proposed rules, regulations, or orders issued pursuant to the Act. This requirement could not be waived unless findings are made

that such time period would cause grievous injury to the operation of the Program and those findings would have to be set out in detail. Too often, Federal agencies employ boilerplate language to waive the requirements of Section 553 of the Administrative Procedures Act because to do so is more convenient. Convenience would not be an adequate standard under my amendment.

2. This amendment provides a mechanism whereby proposed rules, regulations, or orders establishing plans or programs at the state level can be disseminated at that level. While the proposal is unusual in Federal legislation, it is common to many state laws and is, in my judgment, necessary in this case since states and metropolitan areas will be called upon to implement the Federal program.

3. This amendment contains additional hearing requirements not imposed by Section 553 of the Administrative Procedures Act. Subsection (b) (3) of the amendment would require a public hearing on rules, regulations or orders which are likely to have a substantial impact upon the Nations' economy or larger numbers of individuals or businesses or when such hearings would serve to inform the public or aid in obtaining information on actions taken or proposed to be taken.

Such hearings would, to the maximum extent practicable, be held prior to the implementation of any rule, regulation, or order. However, where this is not possible, but where the statutory criteria are met, the amendment provides that hearings shall be held no later than sixty (60) days after the implementation of any such rule, regulation, or order. The premise is that review, even after the program is underway, is better than no review at all. This provides a mechanism for modifying measures which may have been taken under emergency circumstances and an opportunity to re-evaluate as soon as possible thereafter. Since the actions that could be taken under the authority of this Act could cause great hardship and destroy businesses, any delay beyond sixty (60) days is not justified.

4. Subsection (c) (1) of the proposed amendment establishes certain requirements suggested by my review of the Cost of Living Council. One of the chief difficulties with the wage/price program is the public's inability to obtain information on the activities of the Cost of Living Council. Similar difficulties can be anticipated with the agencies administering the Energy Act. Subsection (c) requires the publication of all internal rules and guidelines which may form the basis in whole or in part for any rule, regulation or order and prevents the Agency from relying upon or using any such internal rule or guideline that has not been published in support of its action. I believe that the public should be fully apprised of the criteria upon which decisions are being reached and that all such information must be made widely available. Without such a provision, parties who think they might be entitled to an exception or an exemption are at a total loss in reaching their determination about whether to apply. They can have no confidence about the information they submit in support of their petition or in the result of the process, a grant or denial.

Similarly, the Agency should be required to set forth written opinions in support of its grant or denial of petitions in a form that will give them precedential value to appraise the regulated of their rights and obligations, to ensure consistency of decisions, and to limit unfettered Agency discretion.

Subsection (c) (2) adopts the Bentsen Amendment to subsection (b) of Section 309 of the bill as reported. The Bentsen Amendment has been accepted by the Senate.

5. Subsection (d) (1) of my amendment would require findings of fact and a specific statement explaining the rationale for each provision of plans or programs set forth under the authority granted by this Act. The Government has an obligation to explain the basis of its actions.

6. Subsection (d) (2) of my amendment looks to the future. It would require, at the outset, that each plan or proposal include proposed procedures for the removal of restrictions that it would impose. The time to begin planning for the future is now and subsection (d) (2) would build this planning into the current process.

7. Subsection (d) (3) of my amendment would require the preparation of a schedule for implementing the requirements of Section 552 of Title 5 of the United States Code at the outset. Without rapid implementation of these requirements, the Program could quickly become unmanageable. Section 552 is one of the chief vehicles for disseminating information to the public and, in a program as vast in scope as that proposed in S. 2589, the implementation of those provisions deserves special attention.

8. Subsection (d) (4) would require the immediate preparation and publication of definitions of terms used in the Act. Such definitions will be helpful in giving meaning to many terms used in the Act.

Mr. MATHIAS. I repeat that this amendment arises from some of the disappointment, some of the frustration; some of the difficulties we have observed in the operation of the Cost of Living Council, as it administers wage and price controls.

As I indicated, the Subcommittee on Separation of Powers of the Committee on the Judiciary, of which the distinguished Senator from North Carolina (Mr. Ervin), a cosponsor of this amendment, is chairman, held hearings on the Cost of Living Council, and we found very substantial difficulties facing business, the consumer, labor, and in fact, plaguing the whole economic scene. It is the result of that observation which leads us to offer this amendment this morning.

Mr. JACKSON. Mr. President, I would like to ask the Senator a question. I will give the Senator as much time as he desires. I think the Senate would like to have a better picture of the basic changes that will be made by his amendment of the rules that now apply under the Administrative Procedure Act. I think that would be helpful. We all want to provide proper notice of hearings. What we do not want to create is a situation in which the rules are going to bog down the emergency administration of the act.

I appreciate deeply what the Senator is endeavoring to do, and I think it would help all of us if we could get a more specific picture of what the changes would be. Some changes in the Administrative Procedure Act are necessary if we are going to get this job done. At an appropriate time when the Senator has an opportunity, I would like to be enlightened on it because, frankly, I am not too familiar with all the details of the Administrative Procedure Act.

Mr. MATHIAS. I think this is the best time to go into the points you raise.

This amendment deals with **section 309** of the bill, as amended by the distinguished Senator from Texas (Mr. Bentsen). Under **section 309**, the safeguards of **section 553** of the Administrative Procedure Act can be waived. This is exactly the problem which we focused on with the Cost of Living Council and wage and price controls.

As I indicated, one of the chief difficulties of our current experience with **section 553** is the wide latitude available for waiving its requirements. Subsection (b) (1) of the pending amendment would require a minimum of 5 days notice with an opportunity for comment on all proposed rules, regulations, or orders issued pursuant to the act. This requirement could not be waived unless findings are made that such time period would cause grievous injury to the operation of the program and those findings would have to be set out in detail.

This addresses itself precisely and exactly to the problems which the business community and the consumer are having under wage price controls.

Mr. President, this exactly addresses itself both to the problems of the business community and the consumer. Their problems arise because they cannot find out the basis for decisions that are being made. For example, they cannot find out the statistical background against which the decisions are being made. They have no ability to project

decisions into the future because the information upon those decisions were based is not available.

So what we are suggesting here are some safeguards so that information can be made available as we go along and so that the public can understand what is happening as it is happening.

The amendment further provides the mechanism whereby proposed rules, regulations, or orders establishing plans or programs at the State level can be disseminated at that level.

We understand this is unusual in Federal legislation. It is, however, a common provision in State law and I think it is necessary in this case since States and metropolitan areas will be called upon to implement the Federal program. We already have statements on the part of Governors and other State officials with respect to their intentions.

The amendment contains additional requirements which are not imposed by section 553 of the Administrative Procedure Act. Section (b)3 of the amendment would require hearings on rules, regulations, or orders which are likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses or when such hearings would serve to inform the public or aid in obtaining information on actions taken or proposed to be taken.

I think this gives to the Senator from Washington some sense of what the authors of the amendment propose and of the safeguards it will provide for the American public. I think that without it, the public will again be subjected to the dangers of widespread executive authority which, exercised through bureaucratic agencies, can tend to become arbitrary and authoritarian. Unless the public has access to information, records, and decisions, and unless decisions are arrived at openly, we may have petty tyranny which is characteristic of unchecked control.

I would further observe, in response to the question of the Senator from Washington, that section (b)1 would require findings of fact and a specific statement explaining the rationale for each provision of the plans or programs that are set forth under the authority granted by the act.

As it exists at present, the Government has the obligation to explain the basis of its actions in order to get the confidence of the people. The confidence of the people is absolutely necessary and essential if a program of this sort is to be successful.

Section (d) (2) is a program that looks to the future. It would require, at the outset, that each plan or proposal include proposed procedures for the removal of restrictions that it would impose.

The time for planning for the future is now.

Section (b) (3) would require the preparation of a schedule for the implementation of title V at the outset.

In S. 2589, the implementation of these provisions, I think deserves special attention. Subsection (d) (4) would require the immediate preparation of the publication of definition of terms used in the act. I think that such definition will be helpful in giving meaning to many of the terms used.

Again, referring to the experience we had in the oversight hearings into the operation of the Cost of Living Council, I would observe that this much seems clear: That no program will be successful if such definitions are not provided.

The purpose of the amendment is to provide procedures which will convince the public what is being done under the program is rational and necessary. I believe that the procedures we outline here will help to make it so.

Mr. JACKSON. I am in sympathy with what the able Senator from Maryland is trying to do. Very candidly, my problem, I think, is that I am not certain just exactly what we are doing. To put it in another way, I am not sure how much litigation we are going to get under the proposal. We have the Administrative Procedure Act, which does need some adjustment in **section 309**. On Friday, we adopted a part of the Senator's suggestion. I believe that that amendment was offered by the Senator from Texas (Mr. Bentsen). It provides 5 days notice of rulemaking. It is a good amendment. The procedure would require, as the Senator from Maryland's does, that the State give notice of publication of whatever rule is made, and that is good. I go for that. I am concerned about the date and the proposal. All of these are variances from the Administrative Procedure Act. There is one that requires a public hearing on regulation B, even after it has been adopted. I suppose there is no harm in it, but I am just wondering how big a snarl we are going to get into.

I see no problem on the next item, that requires the publication of internal guidelines. I do not see any harm in that provision.

I guess what I am worried about is whether someone can come along and, in the midst of a very important conservation effort, get tied up in endless litigation, which will take long enough so as to do violence to the objectives of the act. That is what troubles me.

If there were some cutoff on litigation, especially on the injunctive process, that might not be so objectionable. But an injunction might be obtained under this particular amendment that could tie us up for weeks. That is my concern.

Mr. MATHIAS. I understand the Senator's concern.

Mr. JACKSON. I am wondering if we could not have a short recess, to see if we could make some changes that might be acceptable. If we could have a quorum call, we could then see if we could try to make some adjustment. I know of the Senator's concern. I am as deeply concerned as he is, when we consider what has grown out of the experience in the Cost of Living Council. There have been a number of real snafus.

Mr. MATHIAS. I think that a lack of confidence in the Cost of Living Council has cost the Nation much more than whatever time may have been invested in orderly procedure. It seems to me that the greater the emergency, the more the necessity for proper administrative procedure.

But I would welcome the Senator's suggestion and would agree to a quorum call.

Mr. JACKSON. Mr. President, I ask unanimous consent that there be a quorum call. Despite the previously entered unanimous-consent arrangement, I ask that the time for the quorum call not be charged to the time previously agreed to on the Mathias amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Mathias amendment be temporarily laid aside. I think we are in the process of working out a satisfactory substitute, and in the meantime I ask unanimous consent that the order previously entered for the recognition of the Senator from New York (Mr. Javits) for 20 minutes now be in effect.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 683

Mr. JAVITS. Mr. President, it is my intention to call up two amendments at this time. One is No. 683, which I would like to have considered first.

The ACTING PRESIDENT pro tempore. Amendment 683 will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. Javits' amendment (No. 683) is as follows:

On page 16 between lines 2 and 3 add the following new section:

(d) It is the sense of the Congress that since the present energy crisis is very much an international problem which calls for an international as well as domestic response, therefore the United States should endeavor to conclude an appropriate agreement with the other member nations of the Organization for Economic Cooperation and Development, or so many as may be agreed upon in such agreement, relative to the supplies of energy available to the industrialized nations of the free world and with special reference to joint or cooperative research and development for alternative sources of energy.

Mr. President, this amendment proposes a finding in **section 202**, which is headed "Presidential authorization," and adds a new subsection (d), stating that it is the sense of Congress that we should enter into negotiations for an appropriate agreement with the other member nations of the Organization for Economic Cooperation and Development, that is, the other 20 nations, which include three European neutrals and Japan, or as many as may be agreed upon in such agreement—and I shall explain that in a moment—relative to the supplies of energy available to the industrialized nations of the free world, and with special reference to joint or cooperative research and development for alternative sources of energy.

Mr. President, the reason for this amendment is as follows:

First, in explanation of the words "or so many as may be agreed upon in such agreement": Every international agreement generally calls for a certain number of nations to enter into it before the agreement becomes binding, and as that is a matter of negotiation, it cannot be concluded in this amendment.

But my reason for offering the amendment—and I compliment Senator Jackson and Senator Fannin on the drafting of **section 202**, headed "Presidential authorization"; I would not have offered the amendment at all if I felt that that covered it, because I think that, on the whole, they have foreseen most contingencies. The difficulty with the section as it stands, insofar as what I am proposing is concerned, is the use of the word "imports" on line 20 and the use of the word "trade" on line 21.

I am trying to reach yet another problem, which is the complete unpreparedness of the industrialized countries of Western Europe, of

which I am especially conscious because I have just headed a major committee which has made a rather historic study on the subject in respect to finding alternative sources of energy and cooperating in the research, for which there may be a bill of billions of dollars for various types of research in which they could engage.

I am troubled that the use of these rather restrictive words "imports" and "trade" may not cover that particular thing. Also, Mr. President, as our European allies are constantly complaining about "consultation," it seems to me that it would be highly desirable to put Congress on record as saying, "By all means, gentlemen, we want to consult, and we want to consult to good effect, we offer you this opportunity." That is by virtue of the views of Congress. I have made it expressly a sense resolution because I did not wish to bind the committee or to bind the country.

Mr. JACKSON. I want to compliment the Senator from New York for offering the amendment. I am sure he had the opportunity to discuss the matter with some of the OECD people when they were here several months ago. May I say to him, I met with Dr. Spaak, the son of the famous Prime Minister and former Secretary General of NATO, when he was here and I mentioned at that time the urgency of the situation. I suggested, too, that there was an area of cooperation which would be mutually beneficial to our friends in the Atlantic community. Specifically in the area of research and development, we could all profit by the kind of thing that able Senator from New York is endeavoring to do. I compliment him for it. My only regret is that there has been no movement.

Mr. JAVITS. Exactly.

Mr. JACKSON. I pointed out last spring, or whenever the group was here, that time was running out and that we did not have a contingency plan in the Atlantic community to deal with a cutoff in the Middle East.

I have felt for a long time that that was going to happen and that is why I wrote the President in June of 1972 suggesting that we get our foreign policy priorities in order. This particular part of it is the most important. In fact, priority No. 1 in the energy business from the beginning has been foreign policy and how we deal with the problems of imports at a time when our Nation is importing this year probably 35 percent of all its petroleum products.

I am very pleased to accept the amendment. I think it could be very helpful.

Mr. JAVITS. I thank my colleague. I now yield to the Senator from Arizona.

Mr. FANNIN. Mr. President. I thank the Senator from New York. I concur with the manager of the bill and feel that this amendment is necessary. In fact, it is long overdue. We must work together with the other OECD countries, or suffer further blackmail by the Arab countries. I am more disappointed that the OECD countries have not been willing to work with us to a greater extent for the benefit of the free nations of the world. I am hopeful that this amendment will be helpful in explaining the intent of this legislation.

Mr. JAVITS. I thank my colleague. Congress can express itself in a way to enable it to hold the administration to account for progress in this field. I am very grateful to the manager of the bill, and the manager of the bill on the part of the minority, for being willing to take the amendment.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. JAVITS. May I reserve the remainder of my time and yet have this amendment voted on at this time?

The ACTING PRESIDENT pro tempore. By unanimous consent.

Mr. JAVITS. Mr. President, I ask unanimous consent that this amendment may be voted on at this time and to reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

AMENDMENT NO. 653

Mr. JAVITS. Mr. President, I call up my amendment No. 653 and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk read as follows:

In section 202(c), following the word "appropriate," add: "If, at any time following receipt and consideration of the aforementioned interim report, the Congress agrees to a concurrent resolution terminating the action taken pursuant to the declared nationwide energy emergency, all authority granted by this Act shall expire thirty days after the passage of such concurrent resolution."

Mr. JAVITS. Mr. President, I join in this amendment with the Senator from Oregon (Mr. Hatfield). It is intended to give Congress the option to terminate the program which we are legislating here at the end of a 6-month period in which the President is required to submit to Congress an interim report on the implementation of the act, together with such recommendations for amending or extending the Act as he deems appropriate.

Many Members are concerned about the enormous grant of power which is here given to the President. By turning down the rationing, which was a very close question—I voted against immediate rationing—I have since talked with Senator Jackson and told him about my own disquiet if we get into a situation where the President does not want rationing. I want to give him an opportunity to do it without holding a stick over his head and the situation gets not discriminatory or unequal so far as the American people are concerned.

Therefore, Mr. President, although the legislation does not say so, the President can terminate it simply by virtue of the fact that he has the authority to put it into effect. So I think we, too, should have that option. If at the end of 6 months we are not satisfied this has gone the way we want it to go in this amendment which I have proposed, it would give us that authority by concurrent resolution. The concurrent resolution technique is always a matter of discussion and challenge. In this case, it is uniquely appropriate because the granting of authority is given to the President by this legislation. Therefore, we can terminate that authority sooner if we wish than the letter of the statute absent this provision would otherwise allow us to do by virtue of the expiration of the authority. But if we do not give the expiration of the authority, the matter is out of our hands for a full

year. Considering the emergency and speed with which this matter moves, it is an elementary precaution that Congress should take.

Mr. JACKSON. Mr. President, speaking only for myself, I want to say that I think the amendment proposed by the Senator from New York is a very helpful one and gives Congress rightful control over the situation. It does not impede the work that is necessary under the provisions of the act. I think that Congress should retain the authority to pass such a concurrent resolution.

Mr. JAVITS. I thank my colleague and I yield to the Senator from Arizona.

Mr. FANNIN. I should like to say to the distinguished Senator from New York that we discussed this matter with Senator Hatfield. I am not sure we had a vote on this amendment, but this matter could cause uncertainty for anyone preparing for an emergency.

The ACTING PRESIDENT pro tempore. The time of the Senator from New York has expired.

Mr. JAVITS. The other side has time on this.

Mr. FANNIN. The amendment could raise doubts about the wording of the proposed regulations. I understand the intent of the Senator from New York, and I compliment him for attempting to accomplish the objectives he sees necessary. However, I am not in favor of the amendment, because it fails to provide groups taking emergency actions the assurance of a definite time period for followthrough.

Mr. JAVITS. Would the Senator allow me to explain?

Mr. FANNIN. I would appreciate it very much.

Mr. JAVITS. I think that this amendment, Senator Fannin, who knows that we can vote on it at a later time——

Mr. FANNIN. Yes.

Mr. JAVITS. Does exactly what Senator Fannin himself has mentioned for the following reasons: One, it is operative only at the end of 6 months. In other words, everything required to be done under the act, putting the plans into effect, the State plans, and so forth, will have been done, and only after the first report, which is 6 months. So that is point No. 1.

Second, the President himself could eliminate the program at any time. All we are doing is giving ourselves the authority, too. So that the element of uncertainty, if there be uncertainty, is just as great. If the President can do it, we can do it, except we yield the authority for a year to the President.

I do not know what the committee discussed by way of giving Congress the power to terminate, but this is only operative at the end of 6 months.

I think that is very clear from the text, if the Senator will follow me. The report is due within 6 months. My amendment says that only after the report is submitted may Congress terminate the authority, and the termination—because you have to make it effective—would be effective 30 days thereafter.

In short, it does not impede or put people in any more doubt that the President's authority does. For the first 6 months, it is absolutely solid; We join with the President in saying, "OK."

Mr. FANNIN. I understand. This matter was brought up during the hearings, and at one time we did specify 6 months. Then in the interest of remaining consistent we provided for the 1-year period.

Mr. JAVITS. Mr. President, I understand that the practice, if we are to have a rollcall—and I would seek a rollcall—would be to put this amendment over for the vote until 1 o'clock. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. I ask unanimous consent, then, that the vote on this amendment may take place at 1 p.m., following other amendments that may be similarly situated.

Mr. JACKSON. There is no other amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I have no further business. I yield back the remainder of my time.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I believe that the next item, under the unanimous-consent agreement, would be the Helms amendment.

The PRESIDING OFFICER. The Senator is correct.

The Senator from North Carolina is recognized.

AMENDMENT NO. 656

Mr. HELMS. Mr. President, I call up my amendment No. 656, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

At the appropriate place at the end of section 203(b)(2) in title II, insert the following: "limitations on the transportation of students enrolled in schools operated by local or State educational agencies, as defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, in order that students may walk to school insofar as possible without public transportation, or be transported through public means of conveyance no further than to the appropriate school nearest their residence".

Mr. HELMS. Mr. President, I have no desire to consume unduly the time of the Senate in a lengthy discussion of my amendment. If ever this Senate was presented with a clear-cut, straightforward proposition, this is it.

Every Senator, without exception, has sincerely declared his desire to conserve our Nation's energy supply in this time of great crisis. The purpose of this amendment is, and the immediate result of its enactment will be, an enormous saving of gasoline that is now being literally wasted.

I will not repeat the detailed remarks that I made in this Chamber on last Wednesday at the time I submitted this amendment. For the purposes of emphasis, I will reiterate that during the process of drafting this amendment, I spot checked four school districts in my State. I obtained the exact statistics of gasoline consumption by public schoolbuses in these four districts for the 12-month period before compulsory school busing was ordered. Then I compared that total with the gasoline consumption by public schoolbuses—in these very same four dis-

tricts—for the following year, when additional thousands of children were being hauled against their will across cities and counties.

Now, Mr. President, let me emphasize: the statistics I am about to relate cover only four of the school districts in my State. There are 151 school administrative units in North Carolina.

Prior to the imposition of forced busing, the schoolbuses of these four districts consumed 943,463 gallons of gasoline.

The year after forced busing was imposed, Mr. President, the consumption of gasoline by the public school buses in these four districts had increased by 218 percent.

Let me repeat, Mr. President: The increase was 218 percent—for a nonessential, undesirable and often destructive exercise in futility by Federal bureaucrats, or Federal judges, or a combination of the two.

This 218 percent increase, Mr. President, represents a virtual waste of 1,118,908 gallons of gasoline in 1 year—and in just four school districts of my State. Projected estimates for my entire State, Mr. President, set the total of this nonessential use of gasoline as high as 30 million gallons a year.

Senators can project this waste on a national basis to suit themselves. Any projection is bound to disclose an enormous waste of gasoline.

If we in this Senate are really serious, Mr. President, about our often proclaimed desire to relieve the energy crisis, the simple arithmetic of my amendment demonstrates that my proposal is sound, that it can have almost immediate application upon enactment, and that there will be wholesome benefits to the children of this country.

Let no Senator suppose that the farmers of America, who will be sorely needing every gallon of gasoline they can get to operate their tractors and other equipment, will not be bitterly resentful if they are deprived of badly needed gasoline in order that their children may continue to be subjected to compulsory busing to some distant school.

Yes, sir, Mr. President, the farmer is watching this Senate on this vote. The workingman is watching this Senate. The mothers of America are watching this Senate.

Now, Mr. President, a distressing report reached me over the weekend—a report which I refuse to believe until I see it happen. I have been told that a plan was agreed upon at a caucus of Senators from the other side of the aisle to kill my amendment by tabling it. I have been told that some Senators do not want my amendment to come to a vote.

I repeat, Mr. President, I cannot believe this report. I just do not believe Senators are afraid to face up to the question raised by my amendment. And I shall not believe it unless and until I see it happen. Surely, Mr. President, my amendment is not a partisan issue. Surely, Mr. President, there will not be an effort to table this question.

But in the event that it should happen, Mr. President, let the record be clear, so that everyone can understand where each Senator stood.

In the event, Mr. President, that there is needed a motion to table, I shall call for a rollcall.

And then, let no one misunderstand what will be disclosed.

Senators who vote to table my amendment will be voting to continue to waste gasoline—enormous amounts of gasoline, millions of gallons of gasoline—on compulsory, nonessential, undesirable busing of little children.

And Senators who vote against tabling my amendment will be saying: "I'm willing to stand up and be counted."

I would reiterate, Mr. President, that I cannot believe that there will be an effort to table my amendment. But if there is such an effort, the record will be nonetheless clear.

In the interest of time, I have attempted to anticipate objections that may be raised concerning my amendment. And I have prepared a response to each such objection that came to mind. Let me quickly run down the list:

LIST OF OBJECTIONS

OBJECTION

The Helms amendment is an "extraneous amendment" that has nothing to do with solving the energy crisis.

ANSWER

On the contrary, the Helms amendment proposes exactly the same sort of energy conservation measures as S. 2589 proposes. In the very same section, Section 203, S. 2589 calls upon the President to implement transportation control plans. Now I don't know what a transportation control plan is. It sounds to me as though measures would be taken to restrict transportation. My amendment merely makes it clear that such transportation control plans would include restricting the unnecessary transportation of school children in buses. I don't see how this is extraneous at all.

A little farther down, I see the bill proposes another measure capable of reducing energy consumption. It reads as follows: "limitations on operating hours of commercial establishment and public service, such as schools." My amendment also deals with schools. If we are going to have to close schools, as the committee bill requires, whether for part of the day or for whole days at a time, I believe that it is appropriate to take less stringent measures which might allow the schools to stay open. What is more important, to bus children extravagant distances to schools that have to close early in order to save on heating fuel, or to keep the schools open and let the children walk? I think it is ridiculous to keep busing plans in effect, but to close the schools.

Moreover, as I have pointed out, the saving in gasoline by cutting back on busing is enormous. In my home town of Raleigh, they are using eight times more gasoline since compulsory busing was introduced.

OBJECTION

The Helms amendment is "not an act of responsibility."

ANSWER

I assumed that this bill was introduced only because we are in a drastic situation of emergency. Indeed, the findings of the bill say that fuel shortages "have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services." I believe that it is responsible to address the problem of the curtailment of vital public services. That is the issue which my amendment addresses.

I read in the next paragraph of the findings that these shortages "jeopardize the normal flow of interstate and foreign commerce and constitute a nationwide energy emergency which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government." And a little bit later on, Congress determines that these disruptions "pose a serious risk to national security, economic well-being, and health and welfare of the American people."

The distinguished Senator from Washington evidently supports these findings. We are in an emergency situation. We must act wherever we can. I note that the distinguished Senator has moved with dispatch. Hearings were called on this bill with scarcely twenty-four hours' notice. The mark-up on the bill was uncommonly swift. It was brought to the Floor on Wednesday of last week at the

same moment that copies of the bill and the report became generally available. I know that the chairman felt that this speed was the responsible reaction to an emergency situation.

Now this bill proposes many drastic solutions to the emergency situation we are in. It is an understatement to say that no one really knows how these solutions will work out. My amendment, however, is far less drastic. It merely suggests a return to the status quo ante. We know what the situation was before compulsory busing was introduced. We know that the neighborhood school system was an efficient and effective method of education. We also know what happened to school bus gasoline consumption when massive busing was introduced. I think that the responsible thing to do in an emergency situation is to stop waste and go back to proven methods.

OBJECTION

The Helms amendment is unconstitutional.

ANSWER

This is a topic which I touched upon in my remarks last Wednesday. First, I think that it may be said that nobody has a constitutional right to be bused to a certain school under a certain plan. The U.S. Supreme Court has never approved the use of racial percentages as an end in itself. What the Supreme Court said, and I am quoting from the *Swann v. Charlotte/Mecklenburg County Board of Education* case, was that "the use made of mathematical ratios was no more than a starting point in the process of shaping a remedy."

At the time when these decisions were made, the fuel shortage was not a factor in choosing from the available remedies. Compulsory busing was a tool available to carry out the court's order. But widespread busing is no longer available, because of the fuel shortage. The courts will simply have to choose from the remedies which are available today. I am sure that the courts will be guided by the U.S. Supreme Court when that court said, in *Swann*: The reconciliation of competing values in a desegregation case is, of course, a difficult task with many sensitive facets but fundamentally no more so than remedial measures courts of equity have traditionally employed.

My amendment in itself would not be responsible for restricting gasoline available to school buses. The shortage of gasoline is a circumstance which has come about through outside forces. When there is a shortage you can only fill the top priorities. Under my amendment, the President would simply recognize that unnecessary busing is a waste and must be given a low priority. We must be frank in admitting that widespread busing is no longer available as a remedy to work the court's will; its non-availability has come about through circumstance.

Mr. HELMS. Mr. President, I have received countless expressions of support for my amendment. These have come from all over the country. Typical of these expressions is one received from Hon. George C. Wallace, Governor of Alabama. I ask unanimous consent that the text of Governor Wallace's telegram be printed in the Record.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

MONTGOMERY, ALA., November 15, 1973.

HON. JESSE HELMS,
U.S. Senator, Dirksen Building,
Washington, D.C.

DEAR SENATOR HELMS: I would like to congratulate you on your amendment 658 to S. 2589 which would conserve fuel in this time of energy crisis by limiting the public transportation of schoolchildren to the school nearest their homes. Many school systems in Alabama are experiencing extreme difficulty in obtaining sufficient fuel to transport schoolchildren to their presently assigned schools. Unless they are allowed to attend the school nearest their home, many schoolchildren in our State and other States face the probability of being denied the continuance of a public school education solely because of a lack of fuel to transport them.

You are proposing a practical and workable approach which will be of material help in meeting the energy crisis and could render more drastic measures unnecessary.

With best wishes, I am
Sincerely yours,

GEORGE C. WALLACE,
Governor of Alabama.

Mr. HELMS. Also, Mr. President, I would call my colleagues' attention to a newspaper article published Friday, November 16, in the Washington Post. This article points out that the school buses in Prince Georges County, Md., are consuming an enormous amount of additional gasoline as a result of forced busing. The Federal court order affecting that county, Mr. President, is responsible for the wasting of 750,000 gallons of gasoline per year, if I understand the situation correctly. Of course, Mr. President, I cannot vouch for anything I read in the Washington Post, but based on my findings as they relate to school districts in my own State, the Washington Post's report concerning Prince Georges County appears to be in line with what I know to be the situation in North Carolina.

Mr. JAVITS. Mr. President, the real problem with this amendment—and perhaps the Senator would define its limitations—it seems to me, is that it puts in jeopardy the whole problem of bus transportation in aid of desegregation plans.

We have been extremely fortunate in having a time of quietude respecting the whole civil rights struggle, which involves equal opportunity for education. It has been good for the country. Lord knows, we have enough to upset America. Now, though the end of saving fuel is eminently desirable, it seems to me, in the interests of the country's tranquility, that it would be most unwise to make this regressive step rather than to limit pleasure driving, for example.

This is really striking at a very key element in what has become a relatively tranquil situation. It is like people sitting in a tight place in a train or a bus—you gradually get your way into it, and you are kind of comfortable. It is the same with the American people on the busing question, which was so very hotly debated.

I speak as the ranking member of the Committee on Labor and Public Welfare, which handles education. We have been up and down the hill in this battle for years now, and it seems to me that to make this kind of move at this time, under the element of saving fuel, when there are so many other areas in which fuel could be saved by the American people, far beyond even the need to save it without the very real social danger which is involved here, makes it most inadvisable.

I hope very much that the Senate will agree to the motion to table, which I understand will be made—or if it is not made by anyone else, I will make it—respecting this amendment.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. At what point will a motion to table this amendment be in order?

The PRESIDING OFFICER. After the time on the amendment has been used or yielded back.

Mr. JAVITS. If the yeas and nays are ordered, that vote would not come until 1 o'clock. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, the distinguished Senator from New York knows of my respect for him and his diligence in all matters.

I would comment in the form of a question. Why keep busing in effect when we are talking about closing schools or limiting the hours of schools?

Furthermore, the Senator mentioned the words "rather than limit pleasure driving." I would suggest that it is not an either/or proposition. We may have to do both, this energy crisis is that serious.

I know that the Senator from New York is sincere, and I trust that he accords me the same sincerity in my position.

I reserve the remainder of my time.

Mr. JAVITS. In answer to the questions, may I say that I base my argument upon the fact that we will inevitably be making certain regulations respecting national priorities. Indeed, the President has the power to do that under this bill; and if the President chooses to exercise that power in respect of school busing, I must take that risk, because we are giving him that authority. But for us to do it is our picking the priority.

I thoroughly respect the sincerity of Senator Helms. Indeed, I have probably been as ardent an advocate of equal opportunity in education and civil rights generally as any Member of the Senate, and I have always respected the sincerity of our colleagues from the part of the country where this has been part of the social order. I have not used that phrase in years, which shows how the issue has gradually been refined, and much of it has been settled. It was a very much used phrase when the venerated and distinguished Senator Russell of Georgia was carrying the laboring oar for this point of view.

Mr. President, we should not risk the social disorder, the protests, the outrage in a situation which has now, generally speaking, quieted down—certainly very much in the minds of 10 percent of the population. This quieting down may be deceptive; many people think that—that the black community of the United States is by no means satisfied with the way in which its future has gone under the Constitution.

But we are legislators, and we are pragmatic men. My real argument is, "Let well enough alone. Do not stir it up now." Of all times not to stir it up, this is the time not to do so.

I am not arguing the affirmative. I am only arguing the negative. If it is found that this is the way to save fuel and that the risk is closing hospitals or schools, or some other really basic national priority, OK; the President can do it. We will have to live with that. But let us not direct it, which is the purpose of this amendment.

That is the answer to the Senator's question. It is based upon the tranquility which now exists in the field which at one point in our history, in the middle sixties, threatened revolution in this country, and I do not want to stir it up again.

Mr. HELMS. Mr. President, no one could disagree with the Senator's hypothesis. But it is hypothetical, after all, and I am persuaded that the Senator from New York badly misreads the sentiments of the vast majority of the American people. Black and white, they are fed up to their teeth with forced busing of their children.

The Senator is absolutely correct. If the situation were as he describes it, it would be well worthy of consideration to evaluate the

eloquent statement he has just made, which is so typical of him. However, there have been repeated polls among the blacks of this country which show that 80 percent of the blacks resent their children being hauled across the country, just as is true of the parents of children of other races.

I wish to give an example to which I alluded on Wednesday of last week. Forced busing of schoolchildren has reached the point of absurdity throughout the country, not only in the South but also in States in the Midwest and the North, and other sections of the country. In the Charlotte-Mecklenburg area of my State there is a case which illustrates how far we have gone with this absurdity. There is an instance there of a junior high school student who is hauled 22 miles from his home to school in the morning and 22 miles home in the afternoon, and he is the sole passenger on the bus—one bus, one driver, and one student.

If this Senate is going to stand for absurdities like that, I think the Senate should have its head examined.

As I stated previously, we have examined 3 school districts in my State, 3 out of 151 school districts. We discovered that over 1.1 million gallons of gasoline are wasted each year on forced busing in just those three school districts alone.

If we are really serious about wanting to conserve fuel in this country, this is the way to do it. I have given the Senate the arithmetic of it and I stand by the proposition that parents and children of this Nation really do not want forced busing.

I suppose one could call this my "right to walk" amendment. I think the children have a right to walk to their neighborhood schools. I stand by the proposition that this is a profligacy our Nation can ill afford at this time of a fuel crisis.

MR. FANNIN. Mr. President, we have several decisions to make with respect to the conservation of fuel. Some of them may not appeal to all Members of Congress; in fact, very few of them will.

It is regrettable that it is necessary to bus children across town; and in many instances, as the Senator from North Carolina explained, with few passengers on the bus.

The polls still show, as the Senator from North Carolina explained, that there is great opposition to busing for racial balance.

It is true that this amendment will necessitate some changes, but I stated as we began debate on this legislation that we must recognize that changes—some of them troublesome—will be necessary. But I do not believe that we will be taking any action that is adverse to the best interests of the students. Consequently, I do support the amendment.

MR. JAVITS. Mr. President, for a long time the effort was to break the back of school desegregation through prohibiting busing. I was right in the middle of that debate as the ranking minority member of the Committee on Labor and Public Welfare when under the rubric of neighborhood schools, and now it is economy in gasoline—and we will find others—efforts were made to break down the requirements of the courts.

There is no question of racial balance being involved because we prohibited busing for racial balance. The only busing we are talking about is court-ordered busing or pursuant to a plan agreed on with

HEW to carry out the mandate of the Constitution. It is significant that even in the wording of this amendment the whole ball game is given away on page 2, lines 1 and 2, where we find the language "transported through public means of conveyance no further than to the appropriate school nearest their residences." That is the old neighborhood school concept which the courts struck down when it was the segregated school concept.

It was pointed out, and this is really going back to ancient history, that children in the South and other parts of the country were being bussed 20 and 30 years ago before the decision in Brown against the Board of Education, passing white school after white school on the way to get to a black school.

Now, the matter is to be played in reverse under the cover of our shortage of gasoline. If that is the reason for it the President can do it, but the social disorder which will result from regressing to a system of segregation, aided by busing or not busing, which has been present in this country for years, for decades, is something we simply cannot and should not accept.

Mr. JAVITS. As to the black families who do not want their children bused, certainly no one wants his children bused. But the question is would they rather have their children bused and get a decent education, or not bused and get a second-class education. That has been dealt with by the Supreme Court. There have been many arguments and cases about these facts which the Senator from North Carolina gave us for this very reason. The question was not and/or question—"do you like your children bused?" Of course, they do not; no one does. They have long experience with busing, but that is no reason why, in the interest of the Nation, we should throw out what took so long to get recognition of, and that is what this amendment would do.

I say to the constitutionalists that this would cancel out in one amendment of a few lines every court decree based on school desegregation which deals with the busing question as an aid to enforcing the law.

What is the busing clout? It is only to make them obey the law. It is done to obey the law. Yet we would throw it out because we, not the President, decide the places where we are going to save on gas. It is most improvident, and I hope the Senate will reject it.

Mr. HELMS. Mr. President, will the Senator yield to me for the purpose of getting the yeas and nays ordered?

Mr. HASKELL. Certainly.

Mr. President, a parliamentary inquiry. Is that in order under the unanimous-consent request?

The PRESIDING OFFICER. Under the order, the yeas and the nays will not occur until 1 p.m.

Mr. HASKELL. I yield.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. HASKELL. I yield.

Mr. JAVITS. May I address a question to the Senator from Arizona (Mr. Fannin)? Do I understand the minority is now prepared to accept amendment No. 653, which I propose?

Mr. FANNIN. That is correct.

Mr. JAVITS. Very well. I will do that when we are through. I thank the Senator very much.

Mr. HASKELL. Mr. President, I yield myself 1 minute in behalf of the opposition. I oppose, and I think I do so also on behalf of the floor manager of the bill, the Senator from Washington, the pending amendment. My opposition to the amendment is based primarily on the proposition that it is not germane to the emergency situation. I happen to feel that forced busing is counterproductive; that it does not improve racial relations, but rather that it has the opposite effect. But I think the Senator from New York is quite correct in his opposition to the amendment when he says that this is not the time or place for such an explosive issue. Therefore, I hope, when the motion to table is made, the Senate will table the amendment.

Mr. HELMS. Mr. President, first, in response to my friend the distinguished Senator from New York, I would reiterate, as to his suggestion of unconstitutionality, what I have already said. I touched on it this morning. I touched on it last Wednesday.

First, I think that it may be said that nobody has a constitutional right to be bused to a certain school under a certain plan. The U.S. Supreme Court has never approved the use of racial percentages as an end in itself. What the Supreme Court said, and I am quoting from the *Swann* versus Charlotte-Mecklenburg County Board of Education case, was that "the use made of mathematical ratios was no more than a starting point in the process of shaping a remedy."

At the time when these decisions were made, the fuel shortage was not a factor in choosing from the available remedies. Compulsory busing was a tool available to carry out the Court's order. But widespread busing is no longer available because of the fuel shortage. The courts will simply have to choose from the remedies which are available today. I am sure that the courts will be guided by the U.S. Supreme Court when that Court said, in the *Swann* case:

The reconciliation of competing values in a desegregation case is, of course, a difficult task with many sensitive facets but fundamentally no more so than remedial measures courts of equity have traditionally employed.

Let me emphasize again, my amendment in itself would not be responsible for restricting gasoline available to school buses. The shortage of gasoline is a circumstance which has come about through outside forces. When there is a shortage, you can only fill the top priorities. Under my amendment, the President would simply recognize that unnecessary busing is a waste and must at best be given a low priority. We must be frank in admitting that widespread busing is no longer available as a remedy to work the court's will; its nonavailability has come about through the circumstances of fuel shortage.

As to the comments by my distinguished friend from Colorado, I do now know how any issue could be more germane than the arithmetical total of how much gasoline is being wasted in the United States this very day for the purpose of hauling students who do not want to be hauled across cities and counties. It has been estimated that 30 million gallons of gasoline a year are being wasted each year in my State alone, that we know of. You can project that any way you want, but it still comes to an arithmetical fact.

I would hope that the Senate, on this question, would face up to the

amendment itself, and not through the device of a tabling motion, because we have a germane amendment before us and it would be logical to vote on the amendment itself. I do hope Senators will at least face up to an issue that has already been delayed in the committee, and not try to avoid this issue through the process of a tabling motion.

Mr. BROCK. Mr. President, the Senator has eloquently spoken to his own amendment. I am a cosponsor of this amendment for a very simple reason, busing. We have won some and some we have lost, but the fact remains it still continues. This amendment does not really deal with the basic, fundamental question; it simply says that in the allocation of our limited resources at this point in time, those resources shall not be allocated on a priority basis for the compulsion of racial balance.

As the Senator from North Carolina has said, I cannot for the life of me understand why anybody would oppose this kind of amendment. It is certainly germane for us to say where the priorities lie, and it is incredible for me to believe that anyone would consider compulsion as a priority when we are faced with this problem. There are so many reasons why children have been damaged by this process. We do not need to get into that. We are simply talking about allocation of resources.

It seems to me we should face this question by a vote on the amendment of the Senator from North Carolina, and do it directly and forthrightly. This question has been before the Senate time and time again. It has refused to face it. We cannot get the measure before the Senate for a vote. The Senate has not been able to get the constitutional amendment before it, and it has been in the committee for 2 years.

Now it seems to me we have a chance to show a little bit of character and responsiveness to the American people at least in the sense of saying we shall not place a priority on compulsion through busing for the purpose of this device, whether it be racial balance or some other reason.

I am glad the Senator from North Carolina has offered the amendment. It at least gives us a chance to face our constituents on this and offer a response to their plea for assistance on this question.

Mr. HANSEN. Mr. President, it is my intention to support this amendment. I think we do have to establish some priorities. It seems clear to me that this is an area where a significant amount of fuel could be saved.

And I have in mind also the impressive statistics presented by the distinguished Senator from North Carolina in that the Americans without regard to color or background or religious beliefs or any other criteria as far as I know have indicated clearly that they do not favor forced busing for purposes of achieving racial integration. And with that thought in mind, it would be my intention to support the amendment of the distinguished Senator from North Carolina.

Mr. JAVITS. Mr. President, I had understood that a motion would be made to table the amendment, and that the motion would be made by the Senator from Washington. I will be perfectly happy to make the motion when the time expires.

Mr. JACKSON. Mr. President, I did not understand the Senator.

Mr. JAVITS. Mr. President, I had understood that the manager of the bill would move to table the amendment. However, I would be glad to make the motion if the manager of the bill wishes me to.

Mr. JACKSON. That would be all right, if the Senator wishes to make it.

Mr. JAVITS. It would be more appropriate if the manager of the bill were to make it.

Mr. JACKSON. It would be all right with me if the Senator were to make it.

Mr. JAVITS. Mr. President, I think that the Senator from Washington should make it.

Mr. JACKSON. The Senator from North Carolina has asked for a vote up or down on the amendment. If he wants it that way, I will not object.

Mr. JAVITS. Except for this fact, if the Senator would yield me the time, that the motion up or down does not raise the issue of whether we want to tack this particular amendment on this particular bill. And that is, I think, an important issue to raise. Therefore I shall move at the appropriate time to table the amendment. And if my motion fails, I shall move to amend the amendment. And I wish to inform the Senate that I will move to amend. Am I correct in understanding that there would then be no debate on the amendment to the amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I shall move to insert the words, after the word "residence" in this amendment, which appears at the end of the amendment, the words "except where constitutionally required."

The purpose of that amendment to the amendment would be to save the orders of the court which have already been entered and future orders which may be entered in connection with the constitutional right to an equal opportunity for education.

Mr. President, I do not want to go over these amendments again. However, I deeply believe that it would be most improvident to abort the process of Presidential determination respecting priorities which would be involved, especially after the Congress had tried to pass on these authorities if Congress promulgates the risk of a tremendous unsettlement, to say the least, which would arise if we tried to invalidate by this rather neat amendment under the cover of an energy crisis, the action of the court and local educational districts and communities which have been fought over for literally at least 19 years, since the Brown case.

I think it would be most improvident to do so. Hence, I feel it my duty to raise both issues by the motion to table—whether we want to have this in this bill at all and by the motion to amend whether we intend to throw out the enormous labors of the courts and communities on this very vexing question.

Mr. JAVITS. Mr. President, may I point out finally that there is no question of racial imbalance. It is prohibited by law. And we passed that provision a number of times. It is the law today in a number of bills, including the Higher Education Act.

Further, there is no question of quotas. Therefore, the citation from the Mecklenburg case respecting the quotas is not germane to this debate because there is no question of how or when the courts could decide on busing. The question is on eliminating it on the ground of the energy shortage. We should leave that priority to the President, along with the other priorities, and not leave that particular question of eliminating what has been fought over for so long to the Congress.

Mr. BARTLETT. Mr. President, I would like to point out that Oklahoma City is a city according to the last population census of 366,600 inhabitants. The Oklahoma City School District either owns or leases 295 buses. These 295 buses use 3,600 gallons of gasoline daily. Dr. Lillard, the superintendent of schools, estimates that 55 percent of the gasoline used goes for mandatory crosstown busing. This means that the Oklahoma City School District uses 1,980 gallons of gasoline daily, or 350,460 gallons of gasoline annually for the purpose of transporting students to crosstown schools.

I cite those figures, Mr. President, to show the large amount of gasoline used by busing.

Mr. THURMOND. Mr. President, it is my pleasure to rise in support of the amendment offered by my distinguished colleague from North Carolina. There is no question that extensive busing of schoolchildren solely to achieve a racial balance consumes an enormous amount of fuel. Forced busing, which is so obviously unpopular with the vast majority of American citizens—both black and white—becomes even more absurd in view of the very grave energy crisis now facing our country.

I urge all of my colleagues to join in bipartisan support of this very necessary and practical amendment, and I was pleased to join the able Senator from North Carolina in sponsoring it.

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. Did the Senator from New York make a motion to table?

The PRESIDING OFFICER. The Senator from New York has not made a motion to table.

Mr. JAVITS. Mr. President, I move to table the amendment of the Senator from North Carolina and I ask the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? (Putting the question.) There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the question will have to be voted on at 1 o'clock.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, should the motion be rejected, would an amendment to the amendment be in order without debate?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 653

Mr. JAVITS. Mr. President, if the Senator will yield further, I suggest that by unanimous consent we can dispose of amendment No. 653.

Will the manager of the bill yield to me?

Mr. JACKSON. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that the vote may now occur on amendment No. 653, which I raised before.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to amendment No. 653 offered by the Senator from New York (putting the question).

The amendment was agreed to.

AMENDMENT NO. 678

Mr. JACKSON. Mr. President, I ask unanimous consent that, despite the previous unanimous-consent order, it be in order to consider the Ribicoff amendment at the present time.

The PRESIDING OFFICER. Without any prejudice to priorities?

Mr. JACKSON. Without any prejudice to priorities.

The PRESIDING OFFICER. Is there a time limitation?

Mr. JACKSON. A time limitation of 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

On page 29, after line 20, insert the following new section:

SEC. 308. OFFICE OF EMERGENCY FUEL ALLOCATION.—The President shall establish a special office to receive complaints and emergency requests from officers of State and local governmental units who cannot obtain adequate supplies of gasoline or fuel oil. The office shall be authorized to act upon requests from appropriate State and local officers in situations where communities are threatened with the disruption of public services such as health, education, police, fire, and sanitation. The office shall be empowered to order that adequate gasoline and fuel oil supplies be immediately made available to these communities upon its determination that such supplies are needed.

Mr. RIBICOFF. Mr. President, the amendment I call up today to the National Energy Emergency Act of 1973 is designed to insure that cities and towns in every State will be able to get enough gasoline and fuel oil to provide essential services to their citizens. This is intended to keep schools, hospitals, and nursing homes warm this winter, and fire, police, sanitation, ambulance, and other emergency vehicles running.

No allocation or conservation program, no matter how skillfully constructed, will be able to take care of all the emergency situations which will inevitably arise when town councils, city managers, or mayors are unable to obtain heating oil or gasoline.

New England in particular is being warned of severe fuel shortages. People must be reassured that in such a situation they can expect their children at school will not be cold or those lying ill in hospitals will be warm. Already many cities, towns, and counties are finding it difficult to secure dependable sources of fuel for their municipal vehicles and buildings.

My amendment is similar to the one I introduced to S. 1570, the Emergency Petroleum Act of 1973. This amendment was approved by the Senate by a vote of 56 to 0. It creates a new Office of Emergency Fuel Allocation to assist State, municipal and county officials who cannot obtain enough fuel to provide essential services to their communities.

Every Senator already has his own share of horror stories created by the current fuel shortages in his State. One of my most recent instances concerned the town of Plainfield, Conn. The mayor of Plainfield sent me the following telegram:

Imminent gas emergency exists in the Town of Plainfield, 15 vehicles including police vehicles now operating on supply in ground tanks only. Supplier unable to

deliver since October 25. Request immediate assistance in securing procedure for uninterrupted supply to insure health and safety of townspeople. Problem to be seriously compounded during winter months unless continuous supply guaranteed.

Fortunately, a temporary solution was found to this problem before the police cars in Plainfield stopped running. But we will undoubtedly see this situation magnified hundreds and even thousands of times across the country unless practical steps are taken now to prevent future occurrences.

Clearly there has to be some unit established to take care of these situations with an emphasis on speed and simplicity.

My amendment calls for the establishment of a special office to receive complaints from State and municipal officials whose governmental units cannot obtain sufficient supplies of gasoline or fuel oil.

Where communities are thus threatened with the disruption of essential public services, this office will be empowered to order that adequate fuel supplies be made available.

No matter what the reasons are for the present shortages, we simply cannot permit schools and hospitals to go without heat, and ambulances and firetrucks to have empty gas tanks. This office should be able to bypass the inevitable redtape and bureaucratic delays which the implementation of any overall allocation or rationing programs will inevitably produce.

I am particularly pleased that the distinguished chairman of the Interior Committee has indicated to me his support of my amendment. His leadership and guidance in all facets of the energy crisis is worthy of the highest commendation, and I know that the entire Nation owes him a debt of gratitude for his efforts.

I urge all of my colleagues to support this much needed amendment, which will be of great benefit to the people of the cities and towns in their own States.

Mr. JACKSON. Mr. President, if the Senator will yield, the Senator from Arizona has suggested a modification as follows:

On line 4, page 2 of the amendment, after the word "that" insert the following: "priority be given to provide that . . ." so that that sentence would read:

The office shall be empowered to order that priority be given to provide that adequate gasoline and fuel oil supplies be immediately made available to these communities upon its determination that such supplies are needed.

Mr. FANNIN. Mr. President, I support the distinguished Senator from Washington on the modification.

Mr. RIBICOFF. I am agreeable to that.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. JACKSON. Mr. President, I support the amendment. I think it is a good amendment, and very helpful, and I trust the Senate will approve it.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendment be voted upon after 1 o'clock under the previous order, and that it be in order to order the yeas and nays on the Ribicoff amendment at that time or at any time prior thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pursuant to the previous order, the Senator from Wyoming (Mr. Hansen) is recognized to call up his amendment, on which there is a 20-minute time limitation.

Mr. FANNIN. Mr. President, will the Senator yield for a unanimous-consent request; without it being charged against his time?

Mr. HANSEN. I yield.

Mr. FANNIN. Mr. President, on behalf of the Senator from Oklahoma (Mr. Bellmon) I ask unanimous consent that, following the disposition of the Bayh amendment today, he be recognized for 10 minutes on each of two amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FANNIN. I thank the Senator.

AMENDMENT NO. 682 (AS MODIFIED)

Mr. HANSEN. Mr. President, I call up my amendment No. 682, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 26, line 10, insert the following words after "leasing:", "but exclusive of oil shale." and strike the remainder of lines 10 through 12.

Mr. HANSEN. Mr. President, the effect of my amendment would be to subject Federal lease sales of energy resources to the same streamlined NEPA requirements as all other sections included in the bill.

What the amendment does not do is to exempt any lease sale from the full-blown NEPA requirements which take place beyond 1 year after enactment. What my amendment does not do is to repeal NEPA. What my amendment does not do is to remove from existing environmental regulations drilling and other developmental activities which take place pursuant to lease sales conducted within the next year. All such drilling and developmental activities will be subject to existing law and regulations designed to protect the environment.

Let me say, however, that this amendment is necessary. It will save time in the start-up of new Federal actions designed to increase domestic energy supplies.

As many of us have argued for several years, unless we increase energy supplies, all we will be able to do is to spread shortages around.

Thus, this amendment, offered in a bipartisan spirit, with the support of the administration, will indeed help to increase domestic energy supplies.

I might observe that this amendment was before the full Committee on Interior and Insular Affairs and lost on a 7-to-7 tie vote.

I would also call attention to the fact that the northeastern part of the United States, as I feel certain most people will agree, is likely to feel the most critical diminution in supplies of energy this year. This amendment would do something now to make oil and natural gas available even this winter for those areas of the country that otherwise might be very critically hurt by the energy crisis.

Mr. President, my amendment is a simple one and would restore the original intent of **section 206** to all Federal actions intended to increase available domestic petroleum supplies listed under **section 207**. **Section 206** exempts for 1 year under certain conditions the lengthy environmental impact statement process required by the National Environmental Policy Act.

All Federal actions which **section 207** authorizes the President to take to supplement domestic energy supplies for the duration of the emergency are exempt except **section (e)** which reads:

Order the acceleration of lease sales of energy resources on public lands, subject to existing law, to include, but not limited to, oil and gas leasing onshore and offshore and geothermal energy leasing: Provided that the exemptions provided for in **section 206** shall not be applicable to this subsection **207(e)**.

My amendment will strike: "Provided, That the exemptions provided for in **section 206** shall not be applicable to this subsection **207(e)**." That stipulation has the effect of nullifying the section as far as any real "acceleration of lease sales" is concerned.

Section 206 is the only section of this act which addresses itself to emergency measures to increase domestic supply and, in my opinion the quickest possible way to get new supplies is to drill more oil and gas wells.

One of the most promising areas for such exploration and drilling is off the Atlantic coast, according to the U.S. Geological Survey, and the eastern seaboard is the area most dependent on imported oil.

When the last ship carrying Middle East oil arrives in port probably this week, the effects of the Arab oil cutoff will hit the east coast hardest. Even if Texas and Louisiana oil fields were able to produce the oil, and they are not, the logistics problem alone of getting the oil up here could cause considerable hardship.

And if you think we have problems now, wait until the first real cold spell hits.

Hollis Dole who was Assistant Secretary of the Interior for Mineral Resources and himself a geologist said in 1971, and I quote:

But the relatively comfortable balance we now happen to enjoy between energy supply and demand is, I submit, both ephemeral and illusory, and my concern is that having warned the public of an energy crisis that has not yet materialized, those who did so may now be accused of crying wolf. The wolf was indeed at the door earlier this winter; he has merely gone away for a time. But he will surely be back, and he may well bring the whole pack with him.

And you can bet that the whole wolf pack is now at the door.

This is an emergency bill which in the short run can do little but spread the misery around.

But in taking what action we can now to increase domestic supply—and you can be sure the situation will be with us for several years even should we do everything possible—we can at least say to the American people that we are doing something more than just dividing up the shortage.

If we can amend the National Environmental Policy Act to ease restrictions on sulfur emissions at the very least we can certainly apply the same exemption to **section 206(e)** as is applied by this act to all other **sections of 206(e)**.

A report on the study now being conducted by the Council on Environmental Quality of whether submerged lands off our Atlantic coast should be opened to exploration for oil and gas will not be completed before next April. Following the report, there will undoubtedly be a decisionmaking process which will take another year or two to be followed by environmental impact statements, more hearings, and so forth, before any lease offering can be made even if the decision should be to go ahead.

There are those who say we should conduct more studies to be sure that there will be no blowouts or any damage to the environment.

But drilling off the Atlantic coast can certainly pose no more hazards than drilling off the Pacific coast, the Alaska coast or in the Gulf of Mexico, or the North Sea, one of the worst weather areas in the world. More than 16,000 wells have already been drilled offshore, and there have been only three major oil spills.

Certainly the States of the northeast cannot continue to oppose refineries, deepwater ports, powerplants, and off-shore drilling if they expect to have the energy to keep warm and to have jobs.

In the period of time it will take to develop our coal resources into clean-burning fuels, find a feasible process or recovering oil from shale and multiply our nuclear power capabilities, there is no other source of fuel for the economy we are committed to other than oil and gas.

And if it is there, as the geologists believe it is, we better get it out as fast as possible.

I would like to be able to tell people when rationing starts and as prices rise, and as factories shut down, that we are trying now to do what we should have done several years ago—develop new supplies.

I would hate to try to explain to them that while we probably have enough oil and gas to get us over the hump until these new energy sources can be developed, they will just have to wait until we go through the same processes we did on the Alaska pipeline. Only after 5 years did the Congress finally bypass further delay to get the pipeline started. And there will be no oil from it for another 3 years.

I am just afraid most people will not understand. And I just do not believe they will be satisfied with unemployment compensation, food stamps, and the welfare checks this bill would provide them when their plant closes.

Mr. JACKSON. Mr. President, I am sympathetic to what the able Senator from Wyoming is endeavoring to do. I think it would be a mistake, without hearings, to waive the provisions of the National Environmental Policy Act. Perhaps there is a way in which we can speed up the adjudicatory process; but I would object at the present time to waiving the provisions of the National Environmental Policy Act as it relates to the Outer Continental Shelf. I think that to do that would be a mistake. We have some serious problems in connection with certain areas of the Outer Continental Shelf as they pertain to the adjoining area.

On the other hand, I think it is clear that we should expedite the process by which leases are arranged. We do provide for the expeditious treatment of the Outer Continental Shelf program as it pertains to the provisions of the National Environmental Policy Act.

I mention the importance of the National Environmental Policy Act as it relates to the environmental program in connection with the States. I would hope there would be an orderly procedure upon which to proceed, a procedure which would be handled on the basis of proper hearings and notice, but expedited.

Mr. HASKELL. Mr. President, is it correct to assume that at some point the distinguished Senator from Washington (Mr. Jackson), the manager of the bill, intends to offer an amendment to delete sections (d) (1) and (2), on pages 25 and 26 of the bill, pertaining to naval petroleum reserves, and to take them up at a later time?

Mr. JACKSON. Yes, it is my intention to move to delete from the bill provision concerning the Elk Hills Petroleum Reserve. The reason is severalfold. The Committee on Armed Services has not considered this proposal.

I spoke with former Representative Vinson on Saturday evening, who celebrated his 90th birthday yesterday. He has strong objections to contemplating such a program and he said he wanted to talk to me about it. I therefore believe that under all circumstances, especially in connection with the dispute regarding the contract the Navy has at the present time with some of the oil companies for the management and related matters at Elk Hills, it would be unwise to include it in the pending measure. So I will move to strike that provision.

Mr. HASKELL. I thank the Senator. May I make one comment. I think the Senator from Wyoming's point is that if NEPA applies, as it does in the bill, to long-term leasing sales in public lands, it should also apply in the case of naval petroleum reserves.

Mr. HANSEN. Mr. President, I should like to say by way of response to the observation made by the Senator from Washington, that if he is to move forward and delete the sections in 207 that deal with making naval petroleum oil available, there is all the more reason to adopt the amendment which I now offer at this time, because part of the shortfall the Senator from Washington has pointed out that could be made up under the bill comes from naval petroleum reserves. So that if the land and the oil from it is not going to be available, that is all the more reason to get on with the job of leasing those lands both within the continental area of the United States and on the Continental Shelf. This is not anything we have not been doing. We have been leasing lands for a long time. I would point out to Senators that we have drilled in excess of 16,000 wells on the Continental Shelf, in the water, and we have had only three serious oil spills from all those wells. The oil pollution that has occurred in the ocean has been contributed to by oil spills from offshore drilling and production only to the extent of 1.5 percent in the year 1972 as compared to about 30 percent that comes from crankcase drainings going into sewers.

So it seems very important to me that we take this step.

I will bet you, Mr. President, that the people in New England are not going to be half so concerned with the environmental statements on an oil well that may be 15 or 20 miles off their coast as they will be from having no heat this winter. I would hope that Senators would consider that fact.

I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I ask unanimous consent to suggest the absence of a quorum and that the time not be taken out of any existing time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Hansen amendment be temporarily laid aside so that the Senator from

Arkansas (Mr. McClellan) may be given the opportunity to offer his amendment No. 662 and that there be a 3-minute limitation thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 662

Mr. McCLELLAN. Mr. President, I send to the desk amendment No. 662, cosponsored by a number of Senators whose names appear on the amendment, and ask for its immediate consideration.

I ask unanimous consent that the amendment may be modified as indicated.

The PRESIDING OFFICER. The amendment as modified will be stated.

The legislative clerk read as follows:

SEC. 311. MATERIALS AND FUELS ALLOCATION.—To achieve the purposes of this Act, the President shall take such action as may be necessary to allocate supplies of materials, equipment, and fuels associated with exploration, production, refining, and required transportation of energy supplies to the extent necessary to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

Mr. McCLELLAN. Mr. President, this amendment simply provides that the President shall insure that all equipment and fuels necessary to maintain and increase energy exploration, production, refining, and transportation will be provided to the energy industry.

We will not work our way out of the economic crisis we have entered unless and until we increase our available, reliable energy supplies. The fuel allocation program currently in effect has allowed oil rigs to shut down. Fuel has not been allocated to barges to move other fuel to electric utilities in critical fuel supply positions. I am sure that every Member of the Senate has had called to his attention such misallocations.

My amendment would give a first priority to the energy industry, premised on the fact that the energy industry is the only industry that is more than 100 percent efficient in terms of energy output versus energy input. Every gallon of fuel allocated to energy exploration, production, processing, and transportation results in more than a gallon of fuel for other purposes.

I fear that without this amendment the administrators of our allocation program will allow other fuel uses that are wholly consumptive or less than 100 percent efficient to siphon off supplies which should be allocated on an absolute first priority to a use which will increase our total energy supply, and deliver energy supplies once they are available.

Mr. President, I wish to emphasize the fact that this amendment includes such things as drilling pipe, energy pipelines, refinery construction materials, machinery to operate drilling rigs, and the transportation of personnel necessary to produce, process, and transport energy supplies.

Mr. President, the amendment which I have offered and cosponsored by the Senators whose names appear on the amendment is necessary in order for the proper exploration, development, and refinement of oil and gas to continue. I have submitted the amendment to the leadership on both sides of the aisle and I understand there is no objection to it.

I, therefore, trust that the amendment will be agreed to.

Mr. JACKSON. Mr. President, I am pleased to accept the amendment. It is a helpful and clarifying amendment.

Mr. FANNIN. Mr. President, I, too, support the amendment. It will be helpful and should be agreed to.

Mr. McCLELLAN. Mr. President, I thank the distinguished Senators from Washington and Arizona.

Mr. JACKSON. Mr. President, I yield back my time.

Mr. McCLELLAN. My President, I yield back my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Arkansas (No. 662) as modified.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent to suggest the absence of a quorum and that the time not be taken out of either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Biden). Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I would like to say that I am willing to further amend amendment No. 682 to exclude the Atlantic coastline from the tip of Florida north, all up along the Atlantic seaboard as far as the State of Maine, and the Continental Shelf area along the State of Alaska. Other Continental Shelf areas have been drilled and subject to lease. I do not want to deny leasing and exploration of those areas.

I would ask my distinguished colleague from Washington if that sort of an amendment would be acceptable to him.

Mr. JACKSON. No; I could not go along with the amendment because we do have NEPA requirements to deal with, especially in Oregon and Washington where we have a very large fishery operation. We have some serious problems in California areas of the Outer Continental Shelf that are highly fragile.

I suggest we have a hearing on this particular point. I have no evidence there is a holdup on the granting of Outer Continental Shelf leases by reason of NEPA.

Mr. President, I am speaking on my own time. I will give the Senator all of my time. Retroactively, may the time be adjusted so that it includes all of my speech and the remarks of the Senator from Wyoming earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. The real point at issue here is whether NEPA is holding up the leases. The facts are that in the Gulf area there has been no real problem. They have to prepare their environmental impact statement, but it has not held up the program.

What it boils down to is that on the Atlantic coast and in other areas the Bureau of Land Management has not moved expeditiously to get the lease program underway. They argue that it takes 4 or 5 months to finish the impact statements. I think they should take that time to deal with the environmental program. Had they started a year or two ago on this, they would be well along. But the facts are that the national

environmental policy requirements have not held up the granting of leases.

In addition, in Alaska we have almost one-half of the potential Outer Continental Shelf areas subject to leasing. This area must be carefully reviewed.

I want to see a leasing program get underway, but I do not want to simply waive the requirements of the National Environmental Policy Act unless and until there is some showing it is really and truly tying up the leasing program.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. JACKSON. I yield on my time. Take it all from my time.

Mr. HANSEN. I thank the Senator. There has been delay in the leasing of the public lands. I would point out to my distinguished colleague that under NEPA regulations usually about 3 months are required to prepare and circulate the environmental impact statement. Second, public hearings require another 3 months. So on the average it takes 6 months.

I am sorry the distinguished Senator from Washington would not accept my offer to exclude the Atlantic coastline and the Alaskan coastline, so I will be forced to keep my amendment just as it has been submitted at the desk.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second at this time.

Mr. HANSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JACKSON. Out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Hansen amendment be temporarily laid aside in order to consider the Hathaway amendment, which we will be able to accept.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I ask that my unprinted amendment which is at the desk be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record is as follows:

On page 26, after line 19, insert the following:

SEC. 209. Development of Additional Electric Power Resources.—Not later than 90 days after the date of enactment of this Act, the President shall promulgate a plan for the development of the hydroelectric power resources of the Nation. Such program shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power resources, including tidal power.

Mr. HATHAWAY. Mr. President, this amendment requires the President to report on a plan for development of hydroelectric power resources, some of which have been authorized by Congress, and others have not, but have been noted as possible projects for the future.

The President's message on energy does not mention our hydroelectric resources and this amendment covers a gaping hole in his recommendation to Congress.

I understand that both the manager of the bill and the ranking minority member have no objection to the amendment.

Mr. JACKSON. Mr. President, I think this is a helpful amendment. Obviously our hydroelectric resources are very important. We have a number of generators that can be added in the Pacific Northwest that would help to meet the power supply problem in the Northwest. Also we are interconnected with the Southwest so it will be of great help to all the Western part of the United States. There are other areas, the State of Maine included, that have hydroelectric potential, on which we should have the basic information so we can determine whether or not certain programs should be undertaken.

I support the amendment.

Mr. HATHAWAY. I thank the Senator.

Mr. FANNIN. Mr. President, I am pleased to concur with the statement of the Senator from Washington, the manager of the bill. I agree that this amendment is helpful. We should strive in every way possible to develop additional electric power resources.

I am especially pleased with his reference to utilizing available hydroelectric power resources. In many instances across the country hydroelectric projects have not been approved. Many of these decisions should be reconsidered.

I also commend him for including tidal power. That possibility should be thoroughly studied. Whether it can be utilized has not been determined, but we should try in every way possible to explore the possibility.

Mr. HATHAWAY. Mr. President, in conclusion, the amendment would require the President to promulgate a plan, within 90 days of enactment of this act, for the development of the hydroelectric power resources of this Nation. Those resources are vast, according to official estimates of the Federal Power Commission.

The 1972 figures, put out by the FPC, estimate the total conventional hydroelectric power capacity of the United States to be 178.6 million kilowatts, capable of generating an average of 702 billion kilowatt-hours annually. Only about 30 percent of that total has been developed to date.

About 70 percent of our hydroelectric power potential sits undeveloped, as we face the prospect of a winter of heatless homes, work-less factories and offices, children-less schools, gas-less cars, and light-less streets. That statistic represents an incredible waste of nature's power and a situation which must be remedied.

My amendment further requires that the President provide for the expeditious completion of hydroelectric projects already authorized, as well as for the planning of other projects designed to utilize available hydroelectric power resources, including tidal power.

Among the authorized projects, the Dickey Lincoln School project located in northern Maine would provide much needed, reliable, and

pollution-free power to the Northeastern United States, a region more adversely affected by the present and projected shortage of energy than any other part of the country.

The Dickey project would provide for the comprehensive development of the water and power resources of the St. John River. Electric power will constitute the major benefit from the project, with onsite annual power generation of 1.2 billion kilowatt hours, and additional power benefits will be realized at downstream Canadian powerplants.

The most current Corps of Engineers estimate of Dickey's cost is about \$273 million. To date \$2.1 million has been appropriated for pre-construction planning on the project. We must move quickly to complete the project and realize our investment in the vast power potential of the St. John River.

The Passamaquoddy Tidal project started by Franklin Roosevelt in the late 1930's but discontinued because of lack of appropriations has renewed significance because of the energy crisis and because of a comparable operating tidal project in France.

Dickey and Passamaquoddy are but two of many undeveloped hydroelectric resources in this Nation—resources that are both nonpolluting and renewable. The development of our waterpower resource must be a high priority, for it can significantly help offset the power supply deficit we are facing.

Mr. HANSEN. Mr. President, if the Senator from Maine will yield to me briefly, I would like to join in saying I think he has offered a good amendment. I hope it will be adopted. I understand it is agreeable to both sides.

Would the Senator permit me to make a unanimous-consent request?

Mr. HATHAWAY. Mr. President, I am glad to yield for that purpose.

Mr. HANSEN. Mr. President, I ask unanimous consent that it shall be in order for me to request the yeas and nays on my amendment at an appropriate time when there are enough Senators on the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATHAWAY. I thank the Senator for his comments on my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

The PRESIDING OFFICER. The Senate will now return to the consideration of the amendment of the Senator from Wyoming (Mr. Hansen).

Mr. JACKSON. Mr. President, I think we can yield back the remainder of the time.

Mr. HANSEN. Mr. President, I am glad to yield back my time.

Mr. JACKSON. As I understand it, it is in order that the request for the yeas and nays may occur any time between now and the time when the amendment is called up, pursuant to the previous unanimous-consent agreement.

The PRESIDING OFFICER. That is correct, and that the amendment will be put aside until that time.

The Senate will now proceed to the consideration of the amendment of the Senator from Arizona.

Mr. FANNIN. Mr. President, I call up my amendment No. 690 and ask for its immediate considerations.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read the amendment, as follows:

On page 25, strike subsection (b) of section 207 and redesignate the succeeding subsections accordingly.

Mr. FANNIN. Mr. President, this amendment deletes the section of the bill which grants authority to the President to require production beyond MER of oilfields on Federal lands.

The administration does not wish to be granted such authority. I do not believe such authority is necessary or wise. In fact, if this authority is granted and exercised, great injustices could result. Requiring production beyond MER would result in a taking of private property prohibited by the Constitution without compensation. Such taking would result in the Federal Government's becoming liable for compensation of uncounted billions of dollars.

Further, it could result in great waste.

In summary, this authority—that is, **subsection 207(b)**—is not needed. The administration does not wish to be given the authority, as I stated. If it were given the authority and exercised it, the Government would be liable for billions of dollars in judgments against it.

I think we should take into consideration just what is involved. People with expertise in this field have made a judgment regarding the pumping of these wells. Production should proceed on an orderly basis. Production at the maximum efficiency rate yields more oil than if we produced beyond the MER. The oil that is left in the ground as a result of mishandling perhaps could never be recovered.

So I feel that this amendment is necessary and that nothing would be gained if **section 207(b)** were left in the bill.

Mr. JACKSON. Mr. President, I shall be very brief. This is not a mandatory authority for the President. It simply means that if we find ourselves in an emergency—and I can contemplate a number of examples that I shall come to in a moment—the President will have the authority to go beyond the MER, which means the maximum efficient rate of production—in other words, a temporary surge and stepup.

The President is not obligated to do so unless he, in his judgment, finds it necessary. For example, suppose we were getting a million barrels of oil a day from Canada and there should be a sudden, drastic cutback. I do not think we appreciate that the largest single source of our imports happens to be Canada. The Canadians are finding themselves in a very difficult situation. I could cite other examples where we could have a sudden cutback.

I believe the President ought to have discretionary authority to order a stepup in production of existing oil wells and oil fields to order to meet an immediate emergency.

I emphasize that it is not a mandatory obligation on the part of the President, but I cannot understand why the President should not have this authority, this option, this tool available to him in order to act expeditiously.

Mr. FANNIN. Here we are threatening to disturb the flow of oil from the well by overpumping and by not using good practices.

I feel that the administration would be pressured to exceed the MER if this provision were left in the bill. The administration feels **section 207(b)** would be almost unworkable.

I hope the distinguished floor manager of the bill will accept this amendment.

Mr. JACKSON. Well, Mr. President, I regret that I cannot accept the amendment. We are in a serious emergency, and I want to make sure that the President has available to him this option. It is discretionary; it is not mandatory.

Mr. FANNIN. I recognize that we are in a serious position as far as the amount of available domestic oil is concerned. Accordingly, I want to protect the amount of oil that we do have available. I certainly do not want to sacrifice it by taking actions that are considered unwise by people who have expertise in this field.

I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I think the amendment by the distinguished Senator from Arizona is a very timely one. If we stop to analyze, as indeed all Americans must, what sort of winter we are facing and what the years are likely to be in the time ahead, we are not looking at an energy crisis that has any indication at all of evaporating in 30 or 60 or 90 days.

People are concerned about employment in this country. I see where David Rockefeller and two Senators, and the distinguished Senator from Wisconsin (Mr. Proxmire), are concerned about what a cutoff in energy will do insofar as loss of jobs is concerned. So it makes very good sense not to exceed the maximum efficient rate at which any oil well can be produced.

Why do I say that? I say it because it makes sense that America save every drop of oil she has. And we will not save oil any time we exceed the maximum efficient rate. We are going to waste oil and leave in the ground oil that cannot be recovered. I would point out that we do not have any to waste.

Mr. JACKSON. Mr. President, in response to the statement of my colleague, I point out that the interior report of the National Petroleum Council of July 1973 and the one of November 15, 1973, has said that this can be done. The National Petroleum Council is, of course, an industry group. They say that it can be handled without doing violence to conservation measures.

Mr. President, that is a very interesting report from an industry group.

Mr. FANNIN. Mr. President, at an appropriate time and when we have a sufficient number of Senators on the floor, I would like to ask for the yeas and nays on this amendment if the Senator is agreeable.

Mr. JACKSON. Absolutely. Mr. President, again I ask unanimous consent that it be in order to ask for the yeas and nays at any time from now until the amendments are voted on in sequential order pursuant to the unanimous consent agreement of Friday.

The PRESIDING OFFICER. And that the amendment be set aside in the meantime?

Mr. JACKSON. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I think it is important to understand what is involved within the MER and the maximum efficient rate of production.

Most petroleum reservoirs consist of gas sand on top, with oil sand in the middle, and water sand on the bottom. When the oil is produced

to the point of depletion, there is still a considerable amount of oil left, 20 percent or sometimes higher, in the gas sand. There is a very small amount of oil in the water sand. However, it is less than the minimum level after the depletion of the oil sand.

So, if the oil is produced too rapidly, it is very apt to force the oil into the water sand or into the gas sand and it will be lost forever. It would fill up the other sands after the depletion of the oil sands.

So I think it is most important that we strike this section, because this is a bill designed to create conservation throughout the land in the use of our energy. For us to have as part of this bill a measure designed to waste energy and to cause more energy to be lost forever makes no sense. Certainly we have to use every safeguard and every proper method of producing our energy so that we do conserve it.

The original idea of a regulatory agency and the idea of MER was to adopt conservation measures for the best use of our natural resources.

I for one would strongly urge my colleagues to support this measure and strike the provision which would permit a waste of the energy which it would be possible to produce, but which would be lost forever if this provision were not struck.

Mr. JACKSON. Mr. President, despite the previous unanimous-consent agreement, I ask unanimous consent that an amendment to be offered by the Senator from Texas be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I thank the Senator for his courtesy in permitting me to offer my amendment at this time. It is an amendment that I think will make a significant contribution to the bill.

Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 33, between lines 8 and 9 insert a new paragraph as follows:

"The President shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of materials associated with the production of energy supplies and equipment necessary to maintain and increase the production of coal, crude oil and other fuels. The results of this review shall be submitted to the Congress within 30 days of the date of enactment of this Act."

Mr. BENTSEN. Mr. President, the committee has included in this bill section 311, authorizing the President of the United States to take such action as may be necessary to allocate supplies of materials and equipment associated with production of coal, crude oil, and other fuels. I applaud the committee's action.

The shortage of drilling pipe, casing, and other tubular products essential for domestic exploration and production is severe. I have been contacted by many producers who could begin wells tomorrow if they could obtain the necessary supplies. I am aware of one producer who has been trying to find drilling pipe for the last 60 days to drill two wells in Oklahoma in an area where wells are producing 2 million cubic feet of natural gas a day. Mr. President, we need that gas.

During the Korean war, the Department of Commerce, working closely with the Department of the Interior, administered a very effective

tive program to assure immediate deliveries of material to oil and gas producers. These deliveries were made from "set aside" inventories held by private suppliers. This program worked very smoothly and with a minimum of Government involvement. I have written both Commerce Secretary Dent and Interior Secretary Morton and requested that preparations begin at once so that such a program can be reinstituted immediately upon enactment of this bill.

However, my amendment is directed at another aspect of the material and equipment shortage. I have received a number of reports that the 2- to 2.4-percent increase granted for sheet steel on October 1 by the Cost of Living Council has placed oilfield products at a disadvantage in competing for our limited steel capacity. Another price increase for sheet steel is to be effective on January 1. No such increases have been granted for tubular products, and even some steel company officials admit this is having an impact on the production of pipe. In addition to the impact on production, I have received reports of growing exports of tubular products in order to take advantage of world prices higher than those being allowed in the domestic market under cost-of-living guidelines.

Mr. President, I believe that the energy shortage is such that we can ill afford distortions such as these. Indeed, if the administration of controls is contributing to the shortage, then that administration is even having a counterproductive effort on inflation. I am aware of some oil and gas producers presently paying more for used pipe than they would ordinarily pay for new pipe—when they are lucky enough to find used pipe available.

My amendment would require that the President conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if those rulings and regulations are contributing to the shortage. If such regulations are contributing to the unavailability of these products, I believe we would all expect those regulations to be revised.

I am also writing Mr. Dunlop, Director of the Cost of Living Council, requesting that this inquiry begin at once and it not await final passage of this measure. But, a congressionally mandated review to be submitted to us within 30 days will insure my request receives the serious attention it deserves.

I urge the adoption of my amendment and request that the letters to Mr. Dunlop, Secretary Dent, and Secretary Morton be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. SENATE,
Washington, D.C., November 19, 1973.

HON. FREDERICK B. DENT,
Secretary, Department of Commerce,
Washington, D.C.

DEAR MR. SECRETARY: The Senate expects to complete action today on legislation which includes a provision allowing "the President to allocate supplies of materials associated with production of energy supplies and equipment to the extent necessary to maintain and increase the production of coal, crude oil, and other fuels." Final Congressional approval of this legislation is expected shortly.

There is a critical shortage of tubular products necessary for petroleum exploration and production. I have heard from many producers who are delaying the drilling of new wells and, in some cases, are losing production from old ones, because of the unavailability of tubular products. While overall supplies are tight, there still appears to be substantial amounts of tubular products in inven-

tories. Unfortunately, these conditions have occurred before when steel production reached capacity. During such periods, the Department of Commerce has been instrumental in assuring the availability of drilling supplies to those members of the industry prepared to put them to immediate use.

Acting under the Defense Production Act of 1950 during the Korean war, your Department, working with the Department of the Interior and the Petroleum Administration for Defense, carried out a very effective "set aside" program for tubular products. Under this program, private suppliers earmarked 5% of the available stock in each warehouse to be used on an immediate needs basis. Orders for drilling pipe were not made until drilling was to begin and tubing for completion was not ordered until production was obtained. This provided the most efficient utilization of available stock but was only possible because delivery was assured. All reports on the program which I have received indicate it provided rapid delivery with a minimum of government involvement.

I understand there is some question as to whether a similar program could be instituted under the existing authority of the Defense Production Act. However, I believe your Department should begin planning now to reinstate a similar program under the new Congressional authority which we expect will receive final approval shortly.

I am not urging the unnecessary involvement of the government in the allocation of steel. However, this program of a "set-aside" by private suppliers has worked in the past, and I believe a similar one could be extremely beneficial again in the effort which must be made to satisfy the nation's energy needs.

Sincerely,

LLOYD BENTSEN.

U.S. SENATE,

Washington, November 19, 1973.

Hon. ROGERS MORTON,
Secretary, Department of the Interior,
Washington, D.C.

My DEAR MR. SECRETARY: The Senate expects to complete action today on legislation which includes a provision allowing "the President to allocate supplies of materials associated with production of energy supplies and equipment to the extent necessary to maintain and increase the production of coal, crude oil, and other fuels." Final Congressional approval of this legislation is expected shortly.

There is a critical shortage of tubular products necessary for petroleum exploration and production. I have heard from many producers who are delaying the drilling of new wells, and in some cases are losing production from old ones, because of the unavailability of tubular products. While overall supplies are tight, there still appears to be substantial amounts of tubular products in inventories. Unfortunately, these conditions have occurred before when steel production reached capacity. During such periods, the Department of Interior has been instrumental in assuring the availability of drilling supplies to those members of the industry prepared to put them to immediate use.

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I am not urging the unnecessary involvement of the government in the allocation of steel. However, this program of a "set-aside" by private suppliers has worked in the past and I believe a similar one could be extremely beneficial again in the effort which must be made to satisfy the Nation's energy needs.

Sincerely,

LLOYD BENTSEN.

U.S. SENATE,
Washington, D.C., November 19, 1973.

HON. JOHN T. DUNLOP,
Director, Cost of Living Council,
Washington, D.C.

DEAR MR. DUNLOP: A critical shortage of tubular products used in the exploration and production of petroleum has developed during the last several months.

It appears that the shortage is due in part to the 13% increase in drilling activity over the last year and a general reduction in excess steel producing capacity. However, in addition to these normal supply and demand factors, I have received reports that the 2 to 2.4% price increase on sheet steel granted by the Cost of Living Council on October 1 of this year has placed oil field products at a disadvantage in competing for what little capacity is available. While sheet steel cannot be produced in a rolled steel plant, it is clearly possible to use a greater portion of the limited supply of scrap steel and other raw materials in activities which are earning the greatest return. Indeed, with material and labor costs rising, stockholders have every right to expect management to shift the emphasis in production to lines with better price treatment.

In addition, I have received reports of large overseas shipments of tubular products in order to obtain world prices substantially higher than those allowed in domestic markets. The result has been some oil and gas producers are being forced to purchase used pipe at prices in excess of what they usually pay for new pipe.

In view of the importance of increasing domestic production of oil and gas, I request a complete review of all rulings and regulations under the Economic Stabilization Act which could be adversely affecting the production of materials and equipment used in energy production.

Your consideration is most appreciated.

Sincerely,

LLOYD BENTSEN.

MR. JACKSON. Mr. President, I think this is a useful and helpful amendment. This kind of review could certainly be the kind of thing that should be done in any event. Therefore, the amendment offered by the distinguished Senator from Texas will have our support. It helps in what we are trying to do here.

I am therefore pleased to accept the amendment.

MR. FANNIN. Mr. President, I support the amendment of the Senator from Texas. I feel that it will be very helpful, as a review is very much in order. I hope the amendment is adopted.

THE PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas (putting the question).

The amendment was agreed to.

MR. FANNIN. Mr. President, I call up amendment No. 691 and ask for its immediate consideration.

THE PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

MR. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add a new section as follows:

SEC. . If the Secretary of Commerce determines that United States flag vessels are not available in sufficient numbers at reasonable rates for the transport of energy-related products in United States domestic trade for the purpose of equitable distribution of fuels pursuant to the requirements of this Act, he may then waive any statutory requirements that such trade be restricted to United States flag vessels.

MR. FANNIN. Mr. President, the justification for the amendment is, I think, very important because the current shortages of petroleum prod-

ucts in certain areas—particularly the Northeast, that has been heavily dependent on imports—presents a problem of movement of oil among regions that cannot be handled by available pipelines, or other land-based transport system. The remaining alternative is to use ships—for example to move oil from the gulf coast to the Northeast. And this has been discussed continuously in the last few weeks. It is quite a problem.

Unfortunately, there are not enough U.S.-flagships available to handle the expected requirements. The Jones Act restrictions prohibit the use of foreign-flag ships for purposes such as this expected movement. Authority for an exemption from the Jones Act is necessary during the energy emergency.

The proposed amendment would accomplish this purpose. When Mideast oil supplies are again available, this Nation will want to replenish its stock of petroleum as quickly as possible, and using foreign-flag ships on a temporary basis at that time would be helpful. I trust that the distinguished manager of the bill will be willing to accept this amendment.

Mr. JACKSON. Mr. President, do I correctly understand that this would be an exemption to the Jones Act?

Mr. FANNIN. This would be an exemption to the Jones Act for only the period of the emergency, and it would permit the furnishing of fuel—one example would be the transfer of products from the areas on the Gulf of Mexico, in Texas and Louisiana to the Atlantic coast and other areas that would otherwise be destitute for product.

Mr. JACKSON. May I ask, did the administration request this, or approve it?

Mr. FANNIN. This is an administration amendment.

Mr. JACKSON. It is an administration request?

Mr. FANNIN. It is an administration request.

Mr. JACKSON. They are asking for a waiver of the Jones Act. Mr. President, this was not brought up in our hearings. I must say that I would not want to move in support of it until I had something back from the Committee on Commerce, within whose jurisdiction it falls.

We do provide in the bill, of course, for the requisitioning of surplus Government vessels for supply and logistical purposes. But I would have to oppose this amendment.

Mr. FANNIN. Mr. President, before the distinguished Senator confirms his opposition to the amendment, I would just like to read the language to him:

If the Secretary of Commerce determines that United States flag vessels are not available in sufficient numbers at reasonable rates for the transport of energy-related products in United States domestic trade for the purpose of equitable distribution of fuels pursuant to the requirements of this Act, he may then waive any statutory requirements that such trade be restricted to United States flag vessels.

I feel that we have discussed this matter indirectly in the hearings. We have heard continuously about the problems we have had with the shortage of supplies on the Atlantic coast, and that we would need to have vessels to carry produce from the areas where it would be available. If the Senator will recall, we even talked about taking some vessels out of snowballs, where that could be done.

Mr. JACKSON. Yes. Of course, we were referring in that discussion to American-flag vessels.

Mr. FANNIN. American vessels that could be taken out of mothballs.

Mr. JACKSON. We are now talking about putting foreign-flag vessels on coastal or intercoastal operations, which is prohibited under the Jones Act, which has been in effect, I think, since about 1920.

Mr. FANNIN. That is correct.

Mr. JACKSON. Mr. President, we may well have to do that. But I would want some hearings, at least some time——

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. JACKSON. Mr. President, I yield him such time as I may have.

Mr. FANNIN. Senators will understand that this will occur only if the Secretary of Commerce determines that U.S.-flag vessels are not available. So if the ones to come out of mothballs are available, they would be utilized, and this would not curtail that source of shipping.

Mr. JACKSON. If the Commerce Committee would offer this amendment, or state their concurrence I would agree to it. But this involves such a fundamental departure from long-established policy, Mr. President, that I do not see how I could accept the amendment under these circumstances.

I must say I do not necessarily disagree with its intent; I think we may well find ourselves in a position where something such as it proposes will be required, but we will have time to act on the question of using foreign-flag vessels in the coastal trade before they are needed. The biggest problem that we will face, Mr. President, as far as the eastern seaboard is concerned, is how to move the petroleum from the gulf coast from Texas and Louisiana, to the east coast. The east coast has been getting about 70 percent of its petroleum from overseas, and this does pose a serious problem.

My main concern is that there has been no consultation with the Commerce Committee. If that committee would offer the amendment, I would be glad to go along with it, but we have not raised this question with them. We did not have a request at the hearings for it, and I would hope that it could be deferred.

Mr. FANNIN. Mr. President, I certainly understand the feelings of the floor manager of the bill. It is regrettable that we did not have this discussion some time ago. I agree that the Commerce Committee should have a voice in what is done in this regard; but I do know that the Commerce Committee members will have an opportunity to examine the amendment, and with the emergency that exists, I am hopeful that the chairman of the Commerce Committee will support the legislation.

I just want to say to the Senator from Washington that the administration wishes to have this amendment adopted, and so I feel it essential that we have a vote, with the hope that the members of the Commerce Committee will support the legislation, at the proper time I shall ask the floor manager of the bill if he would be willing to ask for the yeas and nays.

Mr. MAGNUSON. This amendment raises serious policy questions which have been a matter of U.S. law since 1789.

We have had laws protecting our transportation industry—air, rail, highway, and water since the founding of this Nation.

This matter cannot be brought up in this context without hearings and careful consideration.

Never in the entire discussion of energy shortages has any mention of a lack of transportation capacity been mentioned. No suggestion has yet been made that sufficient U.S.-flag tonnage does not exist.

Many American flag tankers are now employed in the foreign trades. If they were not so occupied, that tonnage would be laid up.

What has the Maritime Administration of the Department of Commerce said about this effort to shortcut existing legal means to obtain Jones Act waivers?

What evidence has been presented in support of the proposition that a shortage of U.S.-flag tonnage exists?

What administrative procedure safeguards exist to determine shortage of capacity?

What procedures to permit the use of individual vessels?

Protection of U.S. policy which dates back to 1789 demands answers to these questions.

At a time when we are trying to build in protection for the environment such as the Ports and Waterways Act and the application of rigid construction standards for vessels engaged in our coastal trades we cannot open the flood gates to foreign-flag tonnage which are not now covered by such requirements.

The trans-Alaska pipeline bill requires that tankers engaged in the domestic commerce of the United States must comply with the more rigid construction standards by July 1, 1974. This accelerates such requirements in order to protect our valuable coastal areas.

Mr. JACKSON. Mr. President, I think we have finished our discussion on this amendment, and I would ask that the amendment be laid aside until such time as a request may be made for the yeas and nays pursuant to the previous unanimous consent agreement.

The PRESIDING OFFICER (Mr. Nunn). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that notwithstanding the previous order, the able Senator from Texas (Mr. Bentsen) be recognized to offer an amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I thank the distinguished Senator from Washington.

Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Bentsen's amendment is as follows:

On page 34, between lines 2 and 3 insert a new Section 314 as follows and re-number all subsequent sections:

"EMERGENCY ENERGY IMPACT STUDY

"SEC. 314(a) The Council of Economic Advisors, in cooperation with other agencies and departments, shall submit an Emergency Economic Impact Report to the Congress. Such report shall include, but not be limited to the following assessments—

(1) Impact of energy shortage on employment loss and job dislocations; on agriculture planting and harvesting, including the impact on food and fiber

prices; and on the various industries, factories, and flow of commerce and business.

(2) Impact of energy shortage on public service, including but not limited to hospitals, health care, public safety, and transportation.

(b) The above assessments shall include projections as to the impact on the economy during the first quarter of 1974 as well as the full calendar year.

(c) The report shall also include specific recommendations as to how the problems so identified can be minimized so as to reduce population hardship.

(d) A preliminary report is to be filed not later than thirty days after enactment of this Act and a final report not later than sixty days after enactment."

Mr. BENTSEN. Mr. President, we have heard all sorts of comments and predictions as to how this energy shortage will affect this country, what it will do to jobs, what it will do to inflation, and what it will do to the distribution of our supplies. I think it is time that we have a study made by the Council of Economic Advisers. I think such a study should already have been made, but I am urging that it be done now, and that an immediate report be furnished to Congress, so that we can bring about appropriate legislation to try to take corrective measures. Therefore, this amendment directs the Council of Economic Advisers in cooperation with other departments and agencies to submit a report to the Congress concerning the impact of the energy crisis on the economy of the United States. The amendment requires a preliminary report within 30 days following enactment, and a final report 60 days after enactment.

For the last few months, Mr. President, all of us have read newspaper stories about the disruptions in our standard of living attributed to energy shortages. Lower speed limits, less heat, and gasoline limitations are but a few of these disruptions.

For the near future, there are, however, signs of increasing hardships. A special forecast by the Wharton School of the University of Pennsylvania concludes that—

The 1973 United States economy is now vulnerable to a recession and may quickly succumb to the effects of the growing fuel crunch.

In addition, a report by the National Petroleum Council says that anticipated fuel shortages will cause "an annual loss of \$48 billion" from the gross national product in 1974.

If that is correct, what it really would lead to is factories being closed.

What this translates into, Mr. President, is factories will be forced to close; persons without jobs, being forced on unemployment compensation; families unable to pay the bills, transit systems without adequate fuel, brownouts and blackouts because utilities will be unable to produce sufficient electricity.

The list is seemingly endless.

And, without trying to sound like an alarmist, it would seem prudent for the Government to move now to assess the impact of the energy crisis on the economy, to gauge the kinds and types of economic dislocations probable in the months ahead, and to formulate policy recommendations to deal with those dislocations.

I recognize, of course, that various figures exist as to the degree of the energy shortage. Estimates have run from a low of 10 percent to a high of 35 percent shortage. Adding to the uncertainty, I recognize that no agency can predict with accuracy what foreign supplies will do in the future. By necessity then, it would seem to me that the Council

would have to work with different intervals of shortages, and make the best judgments possible on the basis of data and projections available.

I think we need to know, at a minimum, will there be a recession because of energy shortages? If so, how severe will it be? And, what can be done to head it off?

We need to know, how many persons will be without jobs? What level of unemployment will be reached? Where will those jobs losses occur? Will an expanded public service program be necessary?

We need to know, what will happen to the price of goods and services because of the energy shortage? What will be the impact of the fuel shortage on inflation? How much will prices increase for living essentials—food, clothing, transportation, and shelter?

We need to know also, what industries will be affected? And, what can be done to assist those industries and their employees that suffer the brunt of the energy shortage?

It is not difficult to specify other questions in which we need to have data—how for example, will the energy crisis affect hospitals and health care, public schools, agriculture harvest and food costs?

Indeed, I would hope that in the conduct of this study the Council would cast its net as broad as possible.

Regardless, the compelling fact is that hard answers are needed to these difficult questions. Without these kinds of answers, we will continue to meet the energy crisis as a crisis—with short-term measures, without comprehensive policies, and without a clear assurance to the American people that their jobs and families will be safe.

Let us face it, Mr. President, too much of the talk surrounding the energy crisis is that of blame seeking.

The Nixon administration says it sent an energy message to Congress but that Congress did not act. The Congress says that the Nixon administration had all the power and authority it needed under the Economic Stabilization Act to begin emergency measures or start comprehensive energy policy planning but failed to do so because of bureaucratic infighting and the preoccupation of the administration with other matters.

But, Mr. President, a person without a job because of the energy shortage is not interested in political wrangles over who is to blame. What that person wants to know is what is going to happen to him and his family. Where will another job be found? What kind of assistance can Government provide—after all, he says, "I've worked hard and paid my taxes." And, finally, that person wants to know why can not more be expected from his Government than political rhetoric.

That is why we must begin now to develop the data and information and the programs to answer these extremely difficult problems of job dislocations, increasing inflation, and industrial closings caused by the energy shortage.

Mr. President, my amendment will lay the ground work for development of policies and programs directed toward alleviating these programs. It will provide the Congress and the administration with a basis for rational program initiation. And, it will tell the people of the United States that their Government is thinking about them and their immediate problems, and how they can be assisted in coping with the energy crisis.

Mr. President, I believe this amendment will be a contribution to the bill and a contribution to understanding what the problem is.

Mr. JACKSON. Mr. President, once again it is the able Senator from Texas (Mr. Bentsen), a profound student of business economics, who has put his finger on what I think is the crucial problem facing us in the energy crisis. It relates to the economic impact of the cutbacks which we are already experiencing in the energy area as it relates to the production of goods and services in the economy.

It is clear that there have already been rough estimates that the gross national product, at best, may well remain constant with no increase, so that with inflation, and so forth, we would encounter effectively, a decline. Therefore, we should know what the full impact will be. This is something the Council of Economic Advisers should be undertaking at the present time. The amendment will be a burr under their saddle so that they will move without delay. It expresses the deep concern of Congress as to the urgency of getting some early economic forecasts and projections, if they are possible, as a result of the cutbacks in energy.

I commend the Senator from Texas for his amendment.

Mr. BENTSEN. Mr. President, I want to add my voice to the many that have thanked the distinguished Senator from Washington (Mr. Jackson) for the leadership he has shown in meeting this crisis and moving forward with remedial legislation to see that we can help do something about it.

Mr. FANNIN. Mr. President, I am very much pleased to concur with the remarks of the Senator from Washington, the manager of the bill, and to commend the Senator from Texas for offering his amendment, which I think is beneficial and will assist us greatly in knowing exactly what path we are traveling.

I am very pleased to support the amendment.

Mr. BENTSEN. I thank the distinguished Senator from Arizona. I appreciate his immense experience, background, and understanding of the energy source, supplies, and the utilization of them when it comes to the question of resolving this problem.

Mr. President, I urge acceptance of my amendment by the Senate.

The PRESIDING OFFICER (Mr. Nunn). The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

AMENDMENT NO. 692

Mr. FANNIN. Mr. President, I call up my amendment No. 692 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 22, lines 7 through 18, delete subsection 204(c) in its entirety and insert in lieu thereof:

"(c) the President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems for the duration of the energy emergency."

Mr. FANNIN. Mr. President, this amendment replaces section 204(c) of the bill with new language. The new language would provide for incentives to, but not additional subsidies for, mass transit. This is an important amendment and is designed to assist mass transit without

legislating new programs for mass transit. The Interior Committee has no business legislating about mass transit.

Thus, I hope that this amendment will be accepted in the bipartisan spirit in which it is intended.

The type of a subsidy called for in the bill will not solve the basic problem, which is overuse of the automobile. The solution to this problem requires local and State action affecting automobile use including priority lanes for transit, other traffic regulations affecting the choice of mode, land use controls, pricing, and supply of parking facilities, and the formulation of institutions able to deal effectively with these problems at the local level. All these are totally outside the purview of Federal responsibility and clearly require local solutions tailored to local problems.

The availability of Federal funds for operating subsidies would weaken the incentives currently felt by local officials and transit management to improve their operations and hold down operating costs.

A Federal subsidy for reduced fares would constitute a windfall bonanza for cities with large transit companies and would benefit many middle- and upper-class suburban commuters who have no need for, nor right to, such a subsidy. In short, we would be diluting scarce Federal funds in a manner which will not strengthen or expand mass transit and which will unfairly benefit many of those who need it the least.

What needs to be done is to intensify our Federal efforts to provide funds for capital investment in mass transit. This is a proper Federal role which the Congress recognized as it passed the Federal-Aid Highway Act of 1973, which permits State and local communities to use some of their highway program funds for mass transit capital purposes such as the purchase of buses.

I trust that the floor manager will accept the amendment.

MR. JACKSON. Mr. President, I regret that I cannot accept the amendment. I would certainly go along with it if it were in addition to the provisions in subsection (c). But this is in lieu of the direct Federal subsidy that we have provided to bring about reduced fares and to encourage the use of mass transit systems. If the Senator would offer his amendment not in lieu of, but in addition to, the present provisions of this bill I could go along with it because it is in the area where one ought to encourage and provide those incentives that the Senator has referred to. But I would not want to accept it in lieu of the committee's approach to the question.

The Senator knows that we worked out the language in the bill with the Senator from West Virginia (Mr. Randolph), chairman of the Committee on Public Works. I do not feel that I am in a position to accept the amendment under those circumstances.

MR. FANNIN. I understand the Senator's position. I know that at the time we discussed the amendment in committee, I proposed the amendment. There was a vote which was favorable to the amendment. But I do not feel we should have it as an open ended program. I do not think the Senator had a figure at that time—I do not know whether he has a figure at this time—as to what the subsidy would be. Can the distinguished Senator from Washington tell me how much this will cost or give an estimate of what it will cost?

Mr. JACKSON. I really do not know that anyone can give an estimate until we know how bad the crisis will be. This will be a matter for the Committee on Appropriations to work out. They will be able to obtain better estimates after we have passed this bill and then give us the appropriate amount. Congress will retain its authority.

Mr. FANNIN. Does the Senator feel that this is just an emergency measure; that as soon as a period of 1 year has elapsed, these proposals will be dropped?

Mr. JACKSON. I am speaking only for myself. This is solely for the emergency. The help in connection with mass transit will be tied to the provisions of the highway trust fund, as included in the act that was passed as a compromise a few weeks ago.

Mr. FANNIN. As far as I know, there is no formula that can be used beneficially to be sure that we provide equal treatment for all the people who are going to be riding the buses, or even assuring increased utilization of the buses. I think an estimate has been given that it would be very small, as far as fares are concerned. In the overall, it could be very expensive. With respect to a 50-cent charge, I do not know whether the Senator has an idea as to whether the subsidy would be 10 cents or what amount would be involved.

Is any formula included in this particular provision?

Mr. JACKSON. We have not endeavored to spell out the formula. This is, again, a matter in which we would hope the administration would come forth with some recommended guidelines when they request the funds for this purpose from the Appropriations Committee. Frankly, I do not know how we can work out guidelines until we have a better idea where we are going to be a few weeks hence.

Mr. FANNIN. That is what I am afraid of. I do not think we know where we are going as far as this provision is concerned, so I will request a rollcall vote.

Mr. JACKSON. This is an emergency bill.

Mr. President, I ask unanimous consent that the vote on the Fannin amendment as it relates to mass transit be deferred until after 1 o'clock, at which time a request will be made for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Or it may be offered earlier.

AMENDMENT NO. 693

Mr. FANNIN. Mr. President, I call up amendment No. 693.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 27, line 1, strike the words "The Con-", and delete lines 2 through 5.

Mr. FANNIN. Mr. President, this amendment would delete the final portion of section 301. Its effect would be to remove the section which gives Congress the opportunity to veto all or part of any program or proposal the President initiates under this act. Such a power would only cause confusion.

Further, in light of the Javits amendment, which was adopted this morning, Congress could veto the entire program within six months. Thus, in light of the adoption of the Javits amendment, the last sentence of section 301 is not necessary. If it were left in, it would only maximize uncertainty.

This is an emergency act, and we must grant the President emergency power, without trying to look over his shoulder and second-guess him on part or all of every program he initiates under this act.

For these reasons, I ask that my amendment be adopted. I trust that the floor manager of the bill will accept it. It is my understanding that a partial veto would be unconstitutional.

Mr. JACKSON. Mr. President, I regret that I will have to oppose this amendment.

There is a need to have some kind of congressional oversight and overview of this program. It would be a mistake to take away the authority of Congress to take appropriate action to reject the proposal in a given situation where, in the judgment of Congress, the President has exceeded the authority or, in the judgment of Congress, the President has offered a proposal that is contrary to the judgment of Congress.

The Senator from Arizona does raise a question that is a tough one—it has never been resolved—and that is the question of an item veto. I think there is a constitutional question. We have never resolved it. I am being very candid about it. I would hope that that aspect of it could be resolved in conference. But I regret that I will have to oppose the amendment, and I assume the Senator will want a rollcall vote.

Mr. FANNIN. Yes. The administration desires this amendment. I would appreciate a rollcall vote on this amendment.

Mr. HRUSKA. Mr. President, I rise in support of amendment No. 693 proposed by the Senator from Arizona and directed against the so-called congressional item veto contained in **section 301** of the bill.

Section 301 reads as follows:

SEC. 301. CONGRESSIONAL APPROVAL.—Within 2 weeks after the date of enactment of this Act, the President will submit to Congress his proposals for the emergency contingency programs provided for in title II of this Act, and proposals for implementing such programs. The Congress may, within fifteen days of such submission, five of which must have been in legislative session, by concurrent resolution specifically disapprove all or part of the program or proposal.

This provision, to the extent that it provides for an item veto of provisions of the President's emergency proposals, raises a serious issue involving the Constitutional doctrine of separation of powers. Furthermore, it could effectively impede the effectuation of urgent emergency actions, under this and other legislation, to cope with the energy crisis that this legislation is designed to ameliorate.

Section 301 requires the President to submit to the Congress emergency contingency proposals for dealing with the energy crisis within 2 weeks after the enactment of this act.

This is an unrealistically short time for such a complex undertaking. Furthermore, the concept of a single set of contingency proposals to deal with energy crisis is even more unrealistic. Demand and supply conditions change. For example, the Arab Nations have relented, at least temporarily, on shipments of petroleum to Europe. They could continue that policy indefinitely or cut-off supplies overnight. They could relent, in whole or in part, on shipments to the United States. Weather could be mild or it could be severe. Consequently, any contingency plans must be flexible. If the Congress were to approve a set of contingency proposals as prescribed by **section 301**, flexibility, in all likelihood, would be lost since changes in those plans would almost

assuredly be subject to congressional review. Changes in those plans, based upon sensitive secret negotiations with foreign nations, would be effectively precluded if the Congress had to approve each such change and the reasons for the changes had to be spread upon the records of the Congress.

Therefore, it is urged that **section 301** be omitted from this legislation. The executive branch is, and has been, developing contingency plans to deal with the situation and will continue to do so. The Congress will, of necessity, be kept fully informed of those plans.

Clearly the function of preparing the emergency contingency proposals under **section 301** is, by the terms of that section, an Executive function. Under the separation of powers concept of the Constitution, the Congress cannot participate in the performance of Executive functions. Yet that is precisely what it would be doing if it could disapprove a part of the President's contingency proposals and allow others to become effective. Those disapproval provisions cannot be considered to be an exercise of legislative powers of the Congress because it would permit the Congress, in effect, to enact a part of the President's proposals without affording him any opportunity to approve or veto the truncated package.

The proposed amendment should be approved.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Fannin amendment, No. 693, go over until after 1 o'clock, at which time it will be in order to ask for the yeas and nays on the Fannin amendment.

Mr. FANNIN. I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 671

Mr. FANNIN. Mr. President, I call up amendment No. 671.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 20, strike all of lines 5 through 24, and on page 21, strike all of lines 1 through 5, and insert in lieu thereof:

(b) (1) The Interstate Commerce Commission, with respect to carriers subject to regulation under parts I, II, and III of the Interstate Commerce Act, the Civil Aeronautics Board with respect to air carriers engaged in interstate, overseas, and foreign air transportation, and the Federal Maritime Commission, with respect to carriers subject to its jurisdiction for the duration of the energy emergency, in addition to their existing powers, shall have the authority on their own motion or by motion of any interested party, after consultation with the Secretary of Transportation and any other interested Federal agencies, to review and make reasonable and necessary adjustments to the operating authority of carriers within their respective jurisdictions in order to conserve fuel while providing for the public convenience and necessity. This authority includes but is not limited to adjusting the level of operations, altering points served, shortening distances traveled, and reviewing or adjusting rates accordingly. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law, after hearings in accordance with section 553 of title 5 of the United States Code. Any person adversely affected by an action shall be entitled to a judicial review of such action in accordance with chapter 7 of title 5 of the United States Code.

Mr. FANNIN. Mr. President, all this amendment does is require that actions taken pursuant to this bill by the ICC, the CAB, and the FMC be coordinated with the Department of Transportation. During this energy emergency, such consultation and coordination are entirely necessary in order to avoid confusion among transportation agencies in their trying to implement this act. Thus, I urge the adoption of this amendment.

Mr. JACKSON. Mr. President, we worked this out with the Committee on Commerce previously, and the language contained in this section [Sec. 204(b)] was agreeable to the Commerce Committee. They have jurisdiction in this area. I feel obliged to oppose the amendment. This is a jurisdictional problem, basically. I therefore abide by the understanding we had with the Commerce Committee.

Mr. FANNIN. Mr. President, the administration is anxious to have this amendment, since they feel that it is essential that these various agencies coordinate their efforts with the Department of Transportation.

I ask the distinguished Senator from Washington that we have a rollcall vote on this amendment and that the yeas and nays be ordered at the appropriate time.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Fannin amendment No. 671 go over until after the hour of 1 p.m., at which time it will be in order to ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The Senator had five amendments.

Mr. FANNIN. I ask unanimous consent that I be able to submit this amendment. I think the Senator understands.

Mr. JACKSON. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

At the end of the bill add a new title as follows:

TITLE V—ESTABLISHMENT OF ENERGY POLICY OFFICE

ORGANIZATION

SEC. 501. (a) The office in the Executive Office of the President created under Executive Order No. 11726, dated June 29, 1973, and known as the Energy Policy Office (hereinafter in this Title referred to as the "Office") is hereby continued.

(b) The Office shall be headed by a Director of Energy Policy (hereinafter in this Title referred to as the "Director"), who shall be appointed by the President by and with the advice and consent of the Senate.

(c) (1) The functions and powers of the Office shall be vested in the Director.

(2) The Director may from time to time delegate such of his functions as he deems appropriate.

(3) The Director shall exercise all executive and administrative functions of the Office.

(d) There shall be in the Office two Deputy Directors each of whom shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Directors shall perform such functions and duties and exercise such powers as the Director may prescribe.

(e) There shall be in the Office a General Counsel, appointed by the President. The General Counsel shall be the chief legal officer of the Office, and shall perform such functions and duties as the Director may prescribe.

(f) There shall be in the Office not to exceed five Associate Directors, and not to exceed five Assistant Directors, each of whom shall be appointed by the Director. The associate Directors and the Assistant Directors shall perform such functions and duties as the Director may prescribe.

(g) The Director shall designate the order in which Deputy Directors and other officials shall act for and perform the functions of the Director during his absence and disability or in the event of a vacancy in his Office.

FUNCTIONS OF OFFICE

SEC. 502. (a) Under the direction of the President, the Director shall be the chief policy officer of the Executive Branch with respect to energy matters, and shall be the President's principal adviser concerning those matters.

(b) The functions of the Director shall include, but not be limited to, the following:

(1) identify major problems, present and prospective, in the energy area;

(2) review in consultation with departments, agencies and outside groups, policy alternatives with respect to energy matters;

(3) assure that Executive departments and agencies develop short and long-range plans and programs to provide:

(i) adequate and dependable supplies of,

(ii) prudent use and conservation of, and

(iii) fair and equitable allocation of, national energy resources;

(4) assure monitoring of the implementation of approved energy policies, plans and programs;

(5) identify the need for energy statistics and data and assure that this information is being collected and analyzed as the basis for policy decisions; and

(6) facilitate the coordination of energy activities of the Federal Government and provide leadership to State and local governments and others involved in energy activities.

ADMINISTRATION

SEC. 503. The Director is authorized, in carrying out his functions under this Title, to:

(a) Without regard to civil service and classification laws appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and prescribe their authority and duties; except that such officers and employees shall be compensated at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code;

(b) employ experts, expert witnesses, and consultants in accordance with section 3109 of title 5, United States Code, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, for each day they are so employed (including travel time) and pay such persons travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(c) appoint advisory committees composed of such private citizens or officials of Federal, State, and local governments as he deems desirable to advise him, and compensate such persons other than those employed by the Federal Government at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, for each day they are engaged in the actual performance of their duties (including travel time) as members of a committee and pay such persons travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(d) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him and delegate authority for the performance of any such function to any officer or employee under his direction and supervision.

(e) utilize, with their consent, the services, personnel, and facilities of Federal, State, regional, local, and private agencies and instrumentalities, with or without reimbursement therefor, and transfer funds made available under this Title to Federal, State, regional, local, and private agencies and instrumentalities as reimbursement for utilization of such services, personnel, and facilities;

(f) accept voluntary and uncompensated services, except where such services involve administrative proceedings, investigations, or enforcement powers notwithstanding the provisions of section 3679 of the Revised Statutes;

(g) adopt an official seal, which shall be judicially noticed. The provisions of section 709 of title 18, United States Code, shall apply to the use of the seal, after its adoption and publication in the Federal Register, except as authorized under rules or regulations issued by the Director;

(h) accept unconditional gifts or donations of services, money or property, real, personal, or mixed, tangible or intangible except that the acceptance of donations of services shall be subject to the provisions of paragraph (f) of this section;

(i) subject to appropriation Acts, enter into and perform contracts, leases, cooperative agreements, or other transactions with any public agency or instrumentality or with any person, firm, association, corporation, or institution; and

(j) perform such other administrative activities as may be necessary for the effective fulfillment of his duties and functions.

COMPENSATION

SEC. 504. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(22) Director of Energy Policy."

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(62) Deputy Directors, Energy Policy Office (2)."

(c) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(99) Associate Directors, Energy Policy Office (5)."

"(100) General Counsel, Energy Policy Office."

(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(132) Assistant Directors, Energy Policy Office (5)."

APPROPRIATIONS

SEC. 505. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. FANNIN. Mr. President, this is an amendment to create an Energy Policy Office in the Executive Office of the President.

At this time, I should like to read a letter that was sent to the chairman, Senator Jackson with a copy to me:

NOVEMBER 19, 1973.

DEAR SENATOR JACKSON: Enclosed for your consideration as an amendment to S. 2589 is a proposal for establishment of the Energy Policy Office in the Executive Office of the President on a statutory basis.

As you know, the Energy Policy Office was created by Executive Order last June. Subsequent aggravation of the Nation's energy problems and the rapid growth in the workload associated with the planning, formulation, and coordination of energy policy and its implementation require a more permanent, statutory basis upon which the Office could expand its staff commensurate with the workload and develop its own budget requests within the Executive Office for appropriate Presidential and Congressional review and action.

The Office of Management and Budget advises that the proposed amendment to S. 2589 is consistent with the President's program.

Sincerely,

JOHN A. LOVE.

Assistant to the President.

Mr. President, this letter was sent to the Senator from Washington (Mr. Jackson) with a copy to me. I would like to have the Senator's thoughts on the matter.

Mr. JACKSON. Mr. President, I just learned of the letter when I received, first, a call from Governor Love, and the letter arrived a few moments ago. As the Senator mentioned, the matter was not brought to our attention during the course of the hearings.

The amendment is rather lengthy and I would respectfully request that the amendment be deferred so that we can have a hearing as soon after Thanksgiving as possible to pass on the specific legislative request. I would point out that we do have a number of urgent energy bills, the \$20 million research and development program, and one or two other measures. Then, we will get right to this matter. This is an urgent matter and I would not hesitate if we had had some hearings or previous notice, but the matter is complicated.

The amendment runs many pages and it would necessitate some detailed explanation. I would, therefore, respectfully request that the matter be deferred, with the understanding I just mentioned.

Mr. FANNIN. I understand the feelings of the distinguished Senator, the manager of the bill. I agree with him that we did not receive this in time for full consideration. I think the Senator has made a fair proposal; that we will have early hearings on the amendment. With the workload we have before us I feel it should have priority and I trust he will make every endeavor to see that we get early consideration.

Mr. JACKSON. I certainly will, and I will coordinate with the ranking minority member. The Senator knows the problem in connection with the heavy legislative schedule we have in our committee, which is the heaviest, I believe, of any committee in the Senate. But we will not waste any time.

Mr. FANNIN. I appreciate the manner in which the distinguished Senator is willing to go forward on this very important matter. With that understanding, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Under the previous order, following disposition of the amendment by the Senator from Arizona (Mr. Fannin), the Senate will proceed to consideration of the amendment by the Senator from Washington (Mr. Jackson), amendment No. 685 on which there shall be 40 minutes of debate.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

Add a new section 101(h) after line 2, at page 14, as follows:

"(h) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency,"

Add a new section 102(h) after line 6, at page 15, as follows:

"(h) insure against anticompetitive practices and effects and preserve, enhance, and facilitate competition in the development, production, transportation, distribution, and marketing of energy resources."

Add a new section 312 after line 8, at page 33, as follows: and redesignate the remaining sections:

"SEC. 312. ANTITRUST PROVISIONS.—(a) Except as specifically provided in subsections (f) and (k), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' includes—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c) The President shall develop plans of action and may authorize voluntary agreements which are necessary to achieve the purposes of this Act and which encourage and facilitate cooperation and voluntary agreements between (1) the Federal Government, and (2) appropriate segments of the petroleum industry and interested and concerned labor, consumer, and other essential groups. These groups of action and voluntary agreements may be regional in nature or may address functional aspects of the Nation's petroleum system.

"(d) (1) To achieve the purposes of this Act the President may, in addition to the National Energy Advisory Committee established by section 308 of this Act, provide for the establishment of interagency committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. 1) and shall in all cases be chaired by a regular full-time Federal employee.

"(2) An appropriate representative of the Federal Government shall be in attendance at all meetings of any advisory committee or any interagency committee established pursuant to this Act. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and, subject to existing law concerning national security and proprietary information, shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

"(e) The Attorney General and the Federal Trade Commission (1) shall participate in the preparation of any plans of action or voluntary agreement and may propose any alternative which would avoid or overcome, to the greatest extent practical, any anticompetitive effects while achieving the purposes of this Act, and (2) shall have the right to review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement at any time if they determine such plan of action or voluntary agreement is contrary to the purposes of this section, or not necessary to achieve the purposes of this Act.

"(f) Whenever it is necessary, in order to achieve the purposes of this Act, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting refining, marketing, or distributing crude oil or any petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so and have the benefit of the defense provided for in subsection (k) if such meeting, conference, communication, or course of action is conducted in compliance with the provisions of this section and solely for the purpose of achieving the objectives of this Act.

"(g) (1) The Attorney General may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (d) (1) and (3) where such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of carrying out and implementing a plan of action or a voluntary agreement which has been prepared and approved pursuant to this section.

"(2) Any meetings, conferences, or communications exempted from the requirements of subsections (d) (1) and (3) shall be undertaken in accordance with regulations promulgated to implement this section. These regulations shall provide that a log or memorandum of record of any meeting, conference, or communication covered by this subsection (g) (1) shall be prepared and filed with the Assistant Attorney General in charge of the Antitrust division and the Federal Trade Commission.

"(h) The President is authorized to delegate the authority provided for in section 312(c) and (d) (1) to a Federal officer appointed with the advice and

consent of the Senate. The President shall issue regulations governing the operation and implementation of this section 312(c) and (d).

"(i) No provision of this section is intended to supersede, amend, repeal, or modify any provision of the Defense Production Act of 1950, as amended, except that the provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the authority contained in the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973).

"(j) This section 312 shall apply to the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973) notwithstanding any inconsistent provisions of section 6(c) of that Act.

"(k) There shall be available as a defense to any civil or criminal action brought under the antitrust laws arising from any course of action or from any meeting, conference, or communication or agreement held or made in compliance with the provisions of this section solely for the purpose of carrying out a plan of action, voluntary agreement, or otherwise undertaken solely to comply with the requirement of this section.

"(l) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way effecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act; (2) outside the scope and purpose of this Act and this section, or (3) subsequent to its expiration or repeal.

"(m) (1) The Attorney General and the Federal Trade Commission are charged with responsibility for monitoring the implementation of any plan of action, voluntary agreement, regulation or order approved pursuant to section 312 to determine compliance with the purposes of section 101(h) and 102(h) of this Act.

"(2) In furtherance of this responsibility, the Attorney General and the Federal Trade Commission will promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to implementation of any plan of action, voluntary agreement, regulation, or order approved under this Act.

"(3) Persons implementing any program, plan of action, voluntary agreement, regulation, or order approved under this Act will maintain those records required by joint regulations promulgated pursuant to subsection (1) above, and they shall be available for inspection by the Attorney General and the Federal Trade Commission at reasonable times and upon reasonable notice.

"(n) The exercise of the authority provided in section 204(b)(1) shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing an opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I suggest the absence of a quorum, the time to be charged to my time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent, despite the unanimous consent agreement previously entered into, that an amendment to be offered by the Senator from Kansas (Mr. Dole) be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

On page 26, between lines 19 and 20, add the following new subsection:

"SEC. 209. The Secretary of the Interior and the Secretary of Commerce are hereby directed to prepare a comprehensive review of export policies for petroleum and other energy sources to determine the consistency or lack thereof of the Nation's energy trade policy with domestic fuel conservation efforts. Such report shall be submitted to Congress within 30 days after the enactment of this Act."

Mr. DOLE. Mr. President, great concern has recently been expressed over America's full exports policies. Figures have been cited to show that even in this critical period of fuel shortages fuels are being sent outside the country.

On Friday the Senate adopted an amendment to grant the President authority to limit fuel exports. [Sec. 207(b).]

As the McIntyre amendment was debated, and as discussion of whether exports are actually helping or hurting us, I have been struck by the scarcity of solid information and lack of real facts on this question. We have some general figures about petroleum exports and imports, but there is little specific information on which Congress can base a judgment about these matters.

For this reason, I am proposing an amendment ordering the Secretary of the Interior and the Secretary of Commerce to make a comprehensive report to Congress on our fuel export policies to determine whether our energy trade policy is in step with our domestic fuel conservation efforts.

The study should include an analysis of the current trade agreements involving the exporting and importing of fuels to see what might be done to adjust the trade relations in such a way that the energy needs of the country are better served. New import sources and potentials should be investigated and identified. The distillation of crude oil into those products for which there is the greatest domestic need should be examined. For example, the major petroleum products exported from this country are petroleum coke, greases, and lubricants. If proper incentives were available, possibly the distilling process would be adjusted to produce more of the low-grade heating fuels which are so much in domestic demand and less of the products which are utilized for export.

I agree with the purpose of the amendment offered Friday by the senior Senator from New Hampshire to provide the President with authority to control fuel and other petroleum exports. I feel that, and as the Senator from Arizona (Mr. Fannin) indicated, increased domestic fuels supplies might not be attained by a strict embargo at this time. By stopping the export of fuels we would retain all of our present domestic supplies, but the important question that must be asked at this time is what effect would a freeze on export have on our attempt to increase the amount of imported fuels that will be available. In other words, would a halt of fuel exports mean a decrease in fuel imports and an overall decrease in net supplies? I am not

saying that this would happen, but it might, and I feel caution should prevail while we are attempting to carve out a policy that will protect domestic supplies and at the same time insure that our overall supplies from both domestic and imported sources are not inadvertently restricted.

The international market is too complex and we are too dependent on foreign fuel sources to take drastic and uninformed action. But at the same time, we cannot stand idly by and let fuels we so desperately need here at home be exported to foreign countries if such exports are harmful to our overall energy posture.

This amendment would provide the Congress and the Nation with much needed information about a critical area of concern to us all. And this information can serve as the basis for any specific legislative measures which might be required to assure, to the utmost possible extent, that Americans are not deprived of necessary fuels because of unwise export policies and loopholes.

Mr. President, I have discussed the amendment with the Senator from Washington, the Senator from Arizona, and the Senator from Wyoming. It does provide for a study on our export policy by the Secretary of the Interior and the Secretary of Commerce. I think the amendment is acceptable to the manager of the bill.

Mr. JACKSON. Mr. President, I am very pleased to accept the amendment. This is an area that does require careful study. There has been little study on the question of exports heretofore when we have been focusing our attention on oil imports.

I commend the Senator from Kansas for offering the amendment, and I am prepared to accept it.

Mr. FANNIN. Mr. President, I am very pleased to accept the amendment of the Senator from Kansas. I think it helps clarify exactly the situation that exists. It is a good amendment and I support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I believe the pending amendment is the antitrust amendment. Is that correct?

The PRESIDING OFFICER. The pending amendment is amendment No. 685.

Mr. JACKSON. I call up that amendment.

The PRESIDING OFFICER. Amendment No. 685 is the pending business. It has been reported.

Mr. JACKSON. Mr. President, dealing with the shortages facing the Nation will require the effective implementation of both S. 1570, the Mandatory Fuel Allocation Act which the Congress adopted last week, and S. 2589, the National Energy Emergency Act of 1973. Implementation of these measures will require the full support and cooperation of all segments of the petroleum industry.

Representatives of the companies which comprise this industry will have to meet with Federal officials and be kept currently informed of national priorities and plans for dealing with regional, State and local shortages. In many cases, the companies—under direct Federal super-

vision—will have to implement the national decisions concerning allocations to end users and in the movement of crude oil and refined products from areas of surplus to areas of need.

It will be necessary for company representatives to meet, communicate, and, in some cases, to undertake joint courses of action if the purposes of this Act and the Mandatory Allocation Act are to be achieved. Obviously, these meetings, conferences and joint causes of action could constitute violations of the antitrust laws.

To the extent that this is the case, it is anticipated that the companies will be very reluctant to fully cooperate, because by doing so they may be subject to civil and criminal actions under the antitrust laws.

To deal with this problem in connection with S. 1570, the Mandatory Allocation Act, the Congress adopted section 6(c), which provided the companies with a very limited "defense" to such actions so long as any such meetings of joint courses of action were required to achieve the purposes of that act, were monitored by the Attorney General and undertaken at the express request of the Federal Government.

During the committee's consideration of S. 2589, the committee recognized that legitimate corporate concern about antitrust problems could be a constraint to achieving the purposes of this emergency legislation.

During markup, an amendment to deal with this problem was rejected by the committee because it did not provide adequate safeguards. The amendment rejected by the committee reads as follows:

SEC. 305. If the President makes a finding that voluntary agreements or programs which involve joint government-industry coordination with respect to the conservation, allocation, or distribution of energy supplies are necessary in order to protect the public interest by contributing either to national defense or to public health, safety, or welfare, the provisions of section 708 of the Defense Production Act of 1950 (50 App. U.S.C. 2158) shall apply, notwithstanding any other provision of law which may otherwise relate to the formulation and implementation of such voluntary agreements or programs.

The administration proposed a somewhat more limited amendment which was discussed but not adopted. The amendment reads as follows:

SEC. —. In carrying out the provisions of this Act, Section 203 (a) (3) of the Economic Stabilization Act of 1970, as amended, and the (S. 1570), the President or his designee, may exercise the authority, relating to voluntary agreements, conferred upon him by Section 708 of the Defense Production Act of 1950, as amended, subject to the terms, procedures, and limitations specified in that section. Acts or omissions to act which occur pursuant to voluntary agreements approved pursuant to this section shall enjoy antitrust immunity as provided in Section 708.

The committee ordered S. 2589 favorably reported to the Senate with the understanding that committee staff would meet with administration representatives and representatives of other committees to develop an agreed-upon amendment that all parties could support. A number of meetings were held on this subject, and an amendment was agreed upon. I introduced this amendment on Friday. It is the amendment pending now before the Senate.

Mr. President, the amendment provides, I believe, an excellent resolution of this problem. It protects the public interest in the integrity of the antitrust laws and, at the same time, provides a limited defense to actions under the antitrust laws where the person or company is acting

solely in compliance with Federal directives designed to achieve the purposes of this act.

Mr. President, I ask unanimous consent that the text of the amendment be printed at this point in the Record.

There being no objection, amendments No. 685 were ordered to be printed in the Record, as follows:

AMENDMENTS No. 685

Add a new section 101 (h) after line 2, at page 14, as follows:

"(h) the protection and fostering of competition and the prevention of anti-competitive practices and effects are vital during the energy emergency."

Add a new section 102 (h) after line 6, at page 15, as follows:

"(h) insure against anticompetitive practices and effects and preserve, enhance, and facilitate competition in the development, production, transportation, distribution, and marketing of energy resources."

Add a new section 312 after line 8, at page 33, as follows, and redesignate the remaining sections:

"SEC. 312. ANTITRUST PROVISIONS.—(a) Except as specifically provided in subsections (f) and (k), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' includes—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.) ;

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12 et seq.) ;

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.) ;

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9) ; and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c) The President shall develop plans of action and may authorize voluntary agreements which are necessary to achieve the purposes of this Act and which encourage and facilitate cooperation and voluntary agreements between (1) the Federal Government, and (2) appropriate segments of the petroleum industry and interested and concerned labor, consumer, and other essential groups. These plans of action and voluntary agreements may be regional in nature or may address functional aspects of the Nation's petroleum system.

"(d) (1) To achieve the purposes of this Act the President may, in addition to the National Energy Advisory Committee established by section 308 of this Act, provide for the establishment of interagency committees and such additional advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. I) and shall in all cases be chaired by a regular full-time Federal employee.

"(2) An appropriate representative of the Federal Government shall be in attendance at all meetings of any advisory committee or any interagency committee established pursuant to this Act. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and, subject to existing law concerning national security and proprietary information, shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

"(e) The Attorney General and the Federal Trade Commission (1) shall participate in the preparation of any plans of action or voluntary agreement and may propose any alternative which would avoid or overcome, to the greatest extent practical, any anticompetitive effects while achieving the purposes of this Act, and (2) shall have the right to review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement at any time if they determine such plan of action or voluntary agreement is contrary to the purposes of this section, or not necessary to achieve the purposes of this Act.

"(f) Whenever it is necessary, in order to achieve the purposes of this Act, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so and have the benefit of the defense provided for in subsection (k) if such meeting, conference, communication, or course of action is conducted in compliance with the provisions of this section and solely for the purpose of achieving the objectives of this Act.

"(g) (1) The Attorney General may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (d) (1) and (3) where such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of carrying out and implementing a plan of action or a voluntary agreement which has been prepared and approved pursuant to this section.

"(2) Any meetings, conferences, or communications exempted from the requirements of subsections (d) (1) and (3) shall be undertaken in accordance with regulations promulgated to implement this section. These regulations shall provide that a log or memorandum of record of any meeting, conference, or communication covered by this subsection (g) (1) shall be prepared and filed with the Assistant Attorney General in charge of the Antitrust Division and the Federal Trade Commission.

"(h) The President is authorized to delegate the authority provided for in section 312 (c) and (d) (1) to a Federal officer appointed with the advice and consent of the Senate. The President shall issue regulations governing the operation and implementation of this section 312 (c) and (d).

"(i) No provision of this section is intended to supersede, amend, repeal, or modify any provision of the Defense Production Act of 1950, as amended, except that the provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the authority contained in the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973).

"(j) This section 312 shall apply to the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973) notwithstanding any inconsistent provisions of section 6(c) of that Act.

"(k) There shall be available as a defense to any civil or criminal action brought under the antitrust laws arising from any course of action or from any meeting, conference, or communication or agreement held or made in compliance with the provisions of this section solely for the purpose of carrying out a plan of action, voluntary agreement, or otherwise undertaken solely to comply with the requirement of this section.

"(l) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way effecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act; (2) outside the scope and purpose of this Act and this section, or (3) subsequent to its expiration or repeal.

"(m) (1) The Attorney General and the Federal Trade Commission are charged with responsibility for monitoring the implementation of any plan of action, voluntary agreement, regulation or order approved pursuant to section 312 to determine compliance with the purposes of sections 101(h) and 102(h) of this Act.

"(2) In furtherance of this responsibility, the Attorney General and the Federal Trade Commission will promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to implementation of any plan of action, voluntary agreement, regulation, or order approval under this Act.

"(3) Persons implementing any program, plan of action, voluntary agreement, regulation, or order approved under this Act will maintain those records required by joint regulations promulgated pursuant to subsection (1) above, and they shall be available for inspection by the Attorney General and the Federal Trade Commission at reasonable times and upon reasonable notice.

"(n) The exercise of the authority provided in section 204(b) (1) shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken

only after providing an opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

Mr. FANNIN. Mr. President, I support the amendment, which, I would like to indicate for the record, was carefully prepared, as the distinguished Senator from Washington said, after consultations with the administration, the staff of the Senate Subcommittee on Antitrust and Monopoly, and the Senate Interior and Insular Affairs Committee staff. I received a letter from Governor Love asking that this amendment be supported.

For the record, however, I would like to note that this amendment gives the administration the flexibility to rely on section 708 of the Defense Production Act in lieu of the provisions of this act if he can make the defense nexus required to implement the Defense Production Act.

Further, I would like to compliment the Senator from New York (Mr. Buckley) for his leadership in first proposing in committee the amendment which has evolved into amendment No. 685, of which he is a cosponsor and which is being now considered.

The junior Senator from New York deserves credit for his leadership in this area. He devoted a great deal of time, attention, and study to just what is involved. He was the author of some of the stipulations in the amendment; he supports the amendment and urges that it be adopted.

Mr. HART. Mr. President, first of all, I might as well confess my initial concerns. This bill was introduced in an aura of press reports that the oil industry was seeking total antitrust exemption. Looking at the situation—faced with, to paraphrase, “the people who brought you the oil import quotas,” which may very well have contributed to the situation we are in—I had a sinking feeling in my stomach.

Fortunately, it did not work out that way.

At the suggestion of Senator Jackson, the majority and minority staffs of the Antitrust and Monopoly Subcommittee and the Interior Committee, and representatives of the administration and of the Federal Trade Commission, met extensively this week to sort out the myths from the realities. All were cognizant of the urgent need to accommodate the extraordinary circumstances of the energy crisis. At the same time, all agreed that only the minimum necessary antitrust inroads should be made—and then only with adequate safeguards and procedural monitoring.

The lesson learned in the National Recovery Administration in 1933 was one that guided. Then too we were determined to solve a national crisis. But in solving it—in a method 2 years later declared unconstitutional by the Supreme Court—we found that anticompetitive practices had begun which we yet today are not shed of.

Frankly, I would like to see more antitrust safeguards in this bill. But honest negotiation could not produce them and concessions had to be made on both sides. All parties have agreed on the need for and purpose of these provisions. And, on balance, I think that the public interest—as far as antitrust is concerned—is reasonably well protected.

Therefore, I urge my colleagues to support these provisions and the bill.

For the record, let me explain the antitrust amendments:

The act provides no general immunity from the antitrust laws. A limited defense only is created under **section 312 (f) and (k)**. Additionally, procedural and monitoring mechanisms are adopted to protect the public interest. The antitrust provisions adopted by both the Senate and the House in S. 1570—the Emergency Petroleum Allocation Act of 1973—are tailored to provide more flexibility and greater safeguards against abuse. And, the **section 312** provisions shall supersede and apply to that act notwithstanding any inconsistent provisions in **section 6(c)** of that act. Competitive values are made a watchword in **section 101(h) and 102(h)** for guidance in carrying out the act's purposes.

To carry out the act's purposes, certain authority is conferred upon the President which he may delegate as specifically provided. But, authority respecting antitrust and competitive matters and advice is vested exclusively with the Department of Justice and the Federal Trade Commission.

Because of the elaborate mechanism to protect the public interest incorporated in **section 312, subsection (i)** is designed to assure that the section's important safeguards and procedures incorporated as a condition for the granting of a limited antitrust defense and to protect the public interest are not by-passed. Thus, subsection 708 of the Defense Production Act cannot be invoked with respect to any activity which is authorized to be taken under this act or the Emergency Petroleum Allocation Act of 1973, whether or not such activity is also authorized or implemented under the Defense Production Act.

It is recognized that during the emergency, plans of action, voluntary agreements and the establishment of advisory and interagency committees may be necessary to effectuate the purposes of the act. Although these activities in and of themselves may not necessarily amount to violations of the antitrust laws, they present circumstances which increase the possibility of abuse. Thus, under subsections (c) and (d), the President may set these activities in motion if necessary to achieve the purpose of the act.

To protect against abuse and to insure compliance with the purposes of fostering competition and preventing anticompetitive effects, advisory committees are made subject to the Federal Advisory Committee Act of 1972 and may not be chaired by a person who is not in the ordinary course a full-time regular employee of the Federal Government. With respect to any advisory or interagency committee meeting, the Attorney General and the Federal Trade Commission must have advance notice and may have an official representative attend and participate. Also, a full and complete verbatim transcript of advisory committee meetings must be kept, together with any resulting agreement, which shall be deposited with the Attorney General and the Federal Trade Commission where it shall be made available for public inspection. National security and proprietary information, as defined by present law, may be exercised therefrom by the Federal Trade Commission and the Attorney General before making it available to the public. In sum, it is intended that such meetings be held in a fish bowl atmosphere.

Subsection (g) provides a degree of flexibility so that the "fish bowl" atmosphere will not become unnecessarily burdensome. Under (g) (1) the Attorney General is authorized to exempt advisory committee meetings from certain requirements of subsection (d) when they are ministerial in nature and are solely for the purpose of carrying out and implementing a plan of agreement which has already been approved. However, (g) (2) requires the promulgation of regulations which would assure adequate records in the form of logs or memoranda, so that the monitoring function could be performed. This provision is not intended to limit the more general authority given to the Attorney General and the Federal Trade Commission in subsection (m).

Subsection (n) provides that the purposes of the act in the regulated sector of common carriers will be effectuated with as little loss to competition as possible. To this end the two authorities charged with responsibility for the enforcement of the antitrust laws are required to assess the competitive impact of any actions taken in this sector before exercise of the authority provided in **section 204(b)(1)**. The scope of their participation should be viewed in its broadest sense in keeping with the intent of these provisions. It is expected that, if necessary, the Department of Justice and Federal Trade Commission will propose alternative actions that would effectuate the purposes of this act with as little loss to competitive values as possible.

Subsection (e) specifically and affirmatively involves both the Attorney General and the Federal Trade Commission as continuing guardians of competition within the framework of this act.

The thrust on this subsection not only is constant vigilance by the Attorney General and the Federal Trade Commission, but also mandates their active participation and input from the very beginning into any plans of action or voluntary agreements. They are required to propose alternatives to avoid or overcome to the greatest extent practical any anticompetitive effects.

Additionally, at any time the Attorney General or the Federal Trade Commission may amend, modify or disapprove any plan of action or voluntary agreement if they find such plan of action or voluntary agreement is either contrary to the purposes of this section or not necessary to achieve the purposes of the act or not the approach which minimizes anticompetitive effects.

Similarly, they may review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement that has already been implemented.

In addition to the protection of the public interest in the foregoing manner, specific requirements, procedures, and monitoring are included as conditions to obtaining the limited immunity conferred. **Section 312(b)** defines antitrust laws and **section 312(a)** provides for such limited immunity in accordance with the provisions of subsections (f) and (k).

Subsection (f) limits the possible immunity conferred by subsection (k) to designated persons engaged in certain aspects of the petroleum business provided the enumerated activity was conducted solely for the purposes of achieving the objectives of this act and the persons are in compliance with the procedural and other safeguards and requirements of this section.

Subsection (k) confers the limited antitrust defense provided the activity was—

First, held or made in compliance with the protective, monitoring, and other provisions of this section; and

Second, solely for the purpose of carrying out an approved plan of action or voluntary agreement; or

Third, undertaken solely to comply with the requirements of this section.

Any actions or effects having any other purpose are not provided with antitrust immunity. This can be best illustrated by some simple examples. If several firms agree to allocate petroleum products among their customers in furtherance of the objectives of this act, but the purpose of the particular method used actually was the elimination of a competitor, that conduct would not be accorded antitrust protection. Also, a voluntary agreement among competitors to share crude reserves and transporting facilities for the purpose of efficiently allocating resources can be protected. If the parties to the agreement, however, implement its provisions in a predatory manner for the purpose of excluding unnecessarily smaller competitors from crude supplies or transportation services, this is not protected.

Subsection (1) makes clear that this act does not affect in any way any pending or possible antitrust cases regarding the petroleum industry. Nor does this act affect or limit any judgment or order that can be entered in such cases. Likewise, this act does not immunize any conduct which would occur subsequent to expiration or repeal of this act.

Subsection (m) provides the Department of Justice and the Federal Trade Commission with authority to police, quickly and efficiently, the activities carried out in furtherance of this Act. Accordingly, subsection (m)(2) directs the Attorney General and the Federal Trade Commission to promulgate regulations concerning the retention of records which are believed necessary or appropriate to evaluate possible anticompetitive activities and effects. Thus, the antitrust authorities will be in a position to continually assess and monitor activities taken under this act and whether immunity under subsection (k) is appropriate.

Nothing in subsection (m) is intended to limit other powers granted the Attorney General and the Federal Trade Commission under any other statute.

MR. JACKSON. Mr. President, I ask unanimous consent that the vote on this amendment go over until after 1 o'clock.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. JACKSON. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on all amendments that have been put over until 1 o'clock by one show of hands when the time comes.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. JACKSON. And that applies, of course, to the pending amendment.

THE PRESIDING OFFICER. Is time yielded back on the pending amendment?

MR. JACKSON. Mr. President, I suggest the absence of a quorum.

Mr. FANNIN. Mr. President, before the quorum call goes into effect, I would just like to ask the Senator from Washington whether amendments Nos. 690, 691, 692, 693, and 671 were included in the request he made.

Mr. JACKSON. Oh, yes. Let me just explain. I now have, at this tally a request for nine rollcalls. The first one is the Helms amendment, then the Ribicoff amendment, then the Hansen amendment—

The PRESIDING OFFICER. The Chair understands that the order for the yeas and nays is as follows: The Ribicoff amendment No. 678, the Hansen amendment No. 682, the Fannin amendments Nos. 690, 691, 692, 693, and 671, the Jackson amendment No. 685.

Mr. JACKSON. Is that nine?

The PRESIDING OFFICER. The Chair counts eight.

Mr. JACKSON. What about the Helms amendment?

The PRESIDING OFFICER. The yeas and nays have already been ordered on that amendment, and on the tabling motion.

Mr. JACKSON. Is it nine without the Helms amendment? That is, nine plus the Helms amendment?

The PRESIDING OFFICER. And the motion to table. The Senator is correct.

Mr. JACKSON. So we are talking about 10 votes. I think all Senators should be on notice that starting at 1 o'clock we will have a minimum of 10 rollcalls back to back.

The PRESIDING OFFICER. With 15 minutes on the first vote and 10 minutes thereafter.

Mr. JACKSON. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Nunn). Under the previous order, following the disposition of the amendment of the Senator from Washington, the Senate will proceed to the consideration of the amendment by the Senator from Indiana (Mr. Bayh), on which there is 10 minutes of debate.

AMENDMENT NO. 684

Mr. JACKSON. Mr. President, I ask unanimous consent that the Bayh amendment be temporarily laid aside and that it be in order to call up amendment No. 684.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered. The Clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 25, lines 18 to 25, and page 26, lines 1 to 6, insert the following: Delete all of subsection 207(d) and redesignate (e) as "(d)".

Mr. JACKSON. Mr. President, this amendment would strike the provision from the bill which relates to the utilization on an emergency basis by the President of the naval oil reserve in California known as Elk Hill.

After careful consideration, I have come to the conclusion that due to certain outstanding contracts between the Government and the oil

companies we are not in a position to authorize the President to take the emergency steps contemplated by this particular provision in the act.

Mr. President, in addition I would point out that the Department of Defense raises a question about this with regard to the position of the Joint Chiefs of Staff on the question.

On Saturday evening I had an opportunity to talk by telephone to the great statesman from Georgia, former Representative Carl Vinson, who celebrated on yesterday his 91st birthday.

During the course of that discussion I discussed with him the question of Elk Hill. As we all know, former Representative Vinson was the author of the naval petroleum reserve bill, I believe way back in 1914 or 1916. He is the father of the legislation.

Carl Vinson feels very strongly that it would be a mistake to deviate from the present provisions of the law as it pertains to this question.

Mr. President, this amendment would delete from S. 2589 subsection 207(d) which requires the production of oil and gas from the naval petroleum reserves and expedite the exploration and development of those reserves.

In my view the naval petroleum reserves have very real potential for lessening U.S. dependence on imported oil. This potential is largely undeveloped. It is for that reason that S. 1586, the Petroleum Reserves and Import Policy Act of 1973, which I introduced on April 16, provides for the expedited exploration of these reserves.

In the current energy emergency, the naval petroleum reserves could within 3 months add 160,000 barrels a day to domestic crude oil production. I favor producing from the reserves. For that reason, in drafting S. 2589, I included **subsection 207(d)** which requires production of oil and gas from the reserves. As my colleagues know, title 10, United States Code, section 7422 authorizes the Secretary of the Navy to explore and develop the naval petroleum reserves. However, it specifies that to place the reserves in production, the Secretary with the approval of the President must find that production is needed for national defense and the production must be authorized by a joint resolution of Congress.

In my view there is a National Defense need for production as evidenced by the fact that nonavailability of petroleum products to the Armed Forces has already necessitated the priority allocation of such products to the Department of Defense under the terms of the Defense Production Act.

However, there are serious legal problems related to placing the naval reserves in production, particularly the one at Elk Hills in California. Some of these problems are detailed on pages 25 and 26 of the committee report on S. 2589. Subsequent to the committee's action in reporting the bill, the administration requested two further amendments to this section of the bill. The purpose of these amendments was to avoid a situation where a windfall profit could accrue to oil companies as a result of a breach by the Federal Government of unit plan contracts covering the Elk Hills Reserve.

Committee counsel's review of these amendments and the contracts disclosed a number of legal problems which require further hearings and investigations to insure that the public interest is properly protected. It is for these reasons that I move to delete **section 207(d)**.

On November 7, the President sent to the House of Representatives and Senate a request for a joint resolution approving production of the reserves in accordance with title 10, United States Code.

I ask unanimous consent that a copy of that request be printed in the record at the conclusion of my remarks, along with certain correspondence.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JACKSON. I would urge the Armed Services Committee to take up this matter as soon as possible and to approve the President's request.

I shall work to insure that S. 1586 will be reported from the Interior Committee with provision for expedited exploration of the reserves.

Mr. President, I do not not rule out the possibility of using Elk Hills in an emergency. I do feel that we do not have adequate and sufficient information regarding several matters that must be resolved before we authorize this kind of emergency action.

I therefore offer this amendment to strike that provision from the bill. We may well get into the question very shortly again. That may depend upon the necessary clarifications we need to receive before proceeding further.

EXHIBIT 1

THE WHITE HOUSE,
Washington, November 7, 1973.

HON. JAMES O. EASTLAND,
President pro tempore of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a letter from the Acting Secretary of the Navy which provides his finding of the need for increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes. I approve his findings and conclusions and urge adoption of the enclosed proposed joint resolution which would give the approval of the Congress as required by Chapter 641 of Title 10, United States Code.

I request that the Congress act upon this resolution at the earliest possible time.

Sincerely,

RICHARD NIXON.

DEPARTMENT OF THE NAVY,
Washington, D.C., November 6, 1973.

THE PRESIDENT,
The White House.

DEAR MR. PRESIDENT: In accordance with the provisions of Chapter 641 of Title 10, United States Code, there is enclosed my finding that production of petroleum from the Elk Hills Naval Petroleum Reserve is needed for the National Defense, and a proposed joint resolution by which the Congress would give its approval so that production may begin.

I hereby request that you approve my finding and transmit the proposed joint resolution to the Congress.

Sincerely,

JACK L. BOWERS,
Acting Secretary of the Navy.

DEPARTMENT OF THE NAVY,
Washington, D.C.

SECRETARIAL DETERMINATION OF NEED WITH RESPECT TO NAVAL PETROLEUM RESERVE No. 1

Whereas, chapter 641 of title 10, United States Code, authorizes the Secretary of the Navy to determine that the production of naval petroleum reserves is needed for national defense; and

Whereas, the Armed Services of the United States are currently unable to procure on the open market necessary petroleum products to maintain the desired military readiness posture. Present supplies of petroleum are not sufficient, even through mandatory allocation, to meet both the needs of military readiness and essential civilian needs, including those vital to defense. As a consequence, adequate petroleum to meet defense needs cannot be assured from normal sources of supply. In addition and contributing more seriously to the growing deficit in sources of military petroleum supply, certain international events have led to reduced availability from sources outside of the domestic United States. Since the Armed Services normally procure 50% of their needs from these international sources, the military petroleum shortage is even more critical.

Now, therefore, I find that the production of Naval Petroleum Reserve No. 1 is needed for national defense.

In order to authorize production of an amount which will help to insure that the needs of national defense are met, yet not seriously deplete the reserve, it is concluded that the production should be at a rate not to exceed maximum efficient rate in accordance with sound engineering and economic principles. Further, since it is anticipated that other Government agencies will be working aggressively to solve the current problems of energy shortage, the production should continue for a period of one year only. In order to provide for an initial period during which the full production rate can be established, the one year production span should commence 45 days following approval of this Determination of Need by the President and joint resolution of the Congress.

Noting that the Naval Petroleum Reserves are still not fully explored and developed, with the most valuable resources in Naval Petroleum Reserve Number Four almost wholly unexplored, it is further determined that it will be in the interest of the United States to take aggressive action toward such exploration. The Department of the Navy completed a plan in April of 1973 to guide such exploration and development and it is proposed that the first step in implementing this plan be taken concurrently with production of Naval Reserve Number One. To implement this action most directly, it is proposed that the Congress, by the same resolution with which it orders production, order that funds derived from the sale of Naval Petroleum Reserve Number One oil be made available for such exploration and development. All funds received would be applied to this purpose after having first provided for the operations at Naval Petroleum Reserve Number One during the one-year period and providing for facilities necessary to that production and delivery of oil. By this action the Congress can, without using other sources of funds, greatly enhance the capacity and readiness of the Naval Petroleum and Oil Shale Reserves to respond in the future.

JACK L. BOWERS,
Acting Secretary of the Navy.

Dated: November 6, 1973.

JOINT RESOLUTION

Whereas chapter 641 of title 10, United States Code, directs the Secretary of the Navy, among other things, to use and operate all properties within the naval petroleum reserves as are or may become subject to the control and use by the United States for production of petroleum whenever and to the extent the Secretary, with the approval of the President, finds such production required for the national defense: *Provided, however*, that no petroleum shall be produced pursuant to such a finding unless authorized by the Congress by joint resolution; and Whereas such a finding of the necessity for such production to the extent herein authorized has been made by the Secretary of the Navy in his action dated 6 November 1973 which finding has been approved by the President:

Therefore be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORITY FOR PRODUCTION

That the production of petroleum (including crude oil and associated gas and other hydrocarbons) from Naval Petroleum Reserve No. 1 is hereby authorized at a rate to help ensure that the needs of national defense are met, but not to exceed the maximum efficient rate in accordance with sound engineering and economic principles. Such production (to the extent in excess of that otherwise

authorized by chapter 641 of title 10, United States Code) is to commence within forty-five days after the effective date of this Resolution, and to continue for a period of not more than one year after production commences.

DISPOSITION OF PRODUCTION

SEC. 2. The Secretary of the Navy shall dispose of the production herein authorized as provided in chapter 641 of title 10, United States Code, by means of sales, uses, or exchanges effected, determined, or agreed upon after the effective date of this Resolution. As required by said United States Code, all sales shall be effected by competitive bid. The terms of the dispositions shall be so arranged as to give full and equal opportunity for acquisition of the oil by all interested companies, including major and independent oil refineries alike.

DISPOSITION OF RECEIPTS

SEC. 3. (a) There is hereby established on the books of the Treasury Department the Naval Petroleum Reserve Account. This account shall be administered by the Secretary of the Navy under such regulations as the Secretary of Defense may prescribe. Into such account there shall be transferred or credited during the period of increased production authorized by this Act or as may be hereafter authorized (1) unobligated balances of appropriations made available to the Department of the Navy for fiscal year 1974, for exploration, prospecting, conservation, development, use, and operation of the naval petroleum and oil shale reserves, (2) all proceeds realized (i) under chapter 641 of title 10, United States Code, from the sale of petroleum or refined products, oil and gas products, including royalty products, and (ii) the net proceeds realized from sales within the Department of Defense of refined petroleum products accruing to the benefit of the Department of Defense as the result of exchanges, and, (3) such funds as may be appropriated for the Naval Petroleum Reserve Account, to remain available until expended.

(b) Funds available in the Naval Petroleum Reserve Account shall be available for the expenses of: (1) production, including preparation for production, as authorized by this resolution and as may hereafter be authorized, (2) all capital costs necessary for facilities both within and outside the reserve incident to production and delivery of crude petroleum, and (3) exploration, prospecting, conservation, development, use, and operation of the naval petroleum and oil shale reserves as authorized by chapter 641 of title 10, United States Code.

Mr. FANNIN. I support the amendment of the Senator from Washington. I concur in the statement that this is a necessary step to take. We will go forward and determine the proper action with regard to Elk Hills, but the Jackson amendment is essential at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington. [Putting the question.]

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the Bayh amendment which was temporarily set aside.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask that it be stated.

Mr. JACKSON. Mr. President, I ask unanimous consent that the pending amendment, the Bayh amendment, be temporarily laid aside so that the Senator from Louisiana may offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the Johnston amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in full in the Record.

The amendment is as follows:

On page 34, after line 2, insert the following new section:

GUARANTEE OF LOANS TO INDEPENDENT REFINERS FOR NEW OR EXPANDED FACILITIES

SEC. 314. (a) Subject to the provisions of this section, the Secretary of the Interior (hereafter in this section referred to as the "Secretary") is authorized to guarantee the repayment of the principal and interest of loans made to independent refiners to enable them to construct or acquire new refining facilities or expanded refining facilities.

(b) For purposes of this section, the term "independent refiner" means a refiner who (1) obtained, directly or indirectly, in the calendar quarter which ended immediately prior to the date of enactment of this Act, more than 70 per centum of his refinery input of domestic crude oil (or 70 per centum of his refinery input of domestic and imported crude oil) from producers who do not control, are not controlled by, and are not under common control with, such refiner, and (2) marketed or distributed in such quarter and continues to market or distribute a substantial volume of gasoline refined by him through branded independent marketers or nonbranded independent marketers. Such term also means a person who does not have any refining facilities, and who (3) does not control, is not controlled by, or under common control with any producer or producers of crude oil, and (4) establishes to the satisfaction of the Secretary that a substantial volume of petroleum products refined by him will be marketed or distributed through branded independent marketers or nonbranded independent marketers. For purposes of this subsection, the terms "branded independent marketers" and "nonbranded independent marketers" have the meanings assigned to them by section 3 of the Emergency Petroleum Allocation Act of 1973.

(c) Subject to the provisions of this section and to such other terms and conditions as the Secretary may prescribe, upon application made by an independent refiner, the Secretary is authorized to guarantee repayment of all or any portion of the principal and interest on a loan to be made to such independent refiner the proceeds of which are to be used for the construction or acquisition of new refining facilities, including the expansion of existing refining facilities. In order to qualify for such guarantee, an applicant must establish to the satisfaction of the Secretary that—

(1) the new refining facilities will increase his refining capacity and will not replace existing refining facilities of another refiner, and

(2) the applicant has been unable, after reasonable good faith efforts, to obtain assurance of supplies of crude oil sufficient to utilize the full capacity of the new refining facilities, together with his existing refining facilities (if any). Any guarantee under this subsection shall apply only with respect to defaults in payment of principal or interest which are attributable, as specified by the Secretary at the time of making the guarantee, to the inability of the applicant to obtain supplies of crude oil sufficient to utilize 50% of the full capacity of the new refining facilities, together with his existing refining facilities (if any).

(d) No guarantee shall be made under this section unless the Secretary has determined that the facilities involved represent an acceptable financial risk to the United States, taking into consideration (1) the financial and security interests of the United States, and (2) the public purposes of this section.

(e) The Secretary shall take such steps as he considers reasonable to assure that loans guaranteed under this section will—

(1) be made by investors approved by, or meeting requirements prescribed by, the Secretary, or if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary,

(2) bear interest at a rate satisfactory to the Secretary,

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary, and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, or other matters.

(f) The total liability of the United States on loans which the Secretary may guarantee under this section shall not exceed \$1,000,000,000. Within such total amount, the Secretary shall guarantee loans under this section so to—

(1) provide the maximum amount of energy by new or expanded refining facilities of independent refiners,

(2) achieve equitable distribution of such new refining facilities among the various geographic regions of the United States, and

(3) limit the liability of the United States with respect to each loan guaranteed pursuant hereto to 10 per centum of the principal amount of each such loan.

Renumber the succeeding sections in title III.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that my amendment be voted on immediately prior to the vote on the bill at 5 o'clock.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, this amendment addresses a very serious problem that we have in the United States today—that is, lack of refining capacity.

As all of the commentators and all of the experts in the energy field have stated, we have had very little—indeed, virtually no construction and no planning—of new refining capacity in this country in the last 5 or 6 years.

At present the United States is trying to encourage the building of additional refineries. However, the difficulty is that new refineries cannot be assured of a source of crude oil. The domestic supplies of crude oil are extremely limited. Most of the domestic crude supplies are already under contract to the big oil companies. As a result, it is very difficult, if not impossible, for an independent refiner to be sufficiently assured of a source of crude oil so that he can proceed to invest the major amounts of money that it takes to build or expand refineries.

During the debate and consideration of the mandatory allocation bill, attempts were made to put in the bill a provision to guarantee that new refineries would be allocated a sufficient amount of crude oil on a mandatory basis so as to allow them to have the capacity to operate profitably. However, there was objection to a mandatory allocation to such a mandatory allocation of crude oil. As some owners of crude oil and refiners of crude oil pointed out, in order to mandate an allocation of crude oil to a new refiner, it would have been necessary that crude oil be taken from somebody who already had that crude oil—something that in the view of many was totally unfair.

Accordingly, there is no way, under the present law, that a prospective refiner can be assured of a source of crude oil adequate to insure that a refinery could be built and operate at a profit.

What this amendment, therefore, would do is provide that, with respect to independent refiners—not the huge conglomerates, but independent refiners, which are carefully defined in my amendment to include only those refiners who do not have a source of crude oil themselves—that the Secretary may guarantee, subject to conditions that protect the rights of the Federal Government up to 10 percent of the amount of the loan that is required in order to build a new or ex-

panded refinery, if it appears to the Secretary's satisfaction that such a refiner is unable to obtain assurances of an adequate supply of crude oil. In the event a refiner obtains a guaranteed loan and he then is unable, in due course, to obtain at least 50 percent of the capacity of his refinery, the guarantee becomes operative to the extent necessary to cover principal and interest attributable to the period in which the refiner is unable to obtain crude sufficient to meet 50 percent of the refinery's capacity. In no event may such principal and interest payments exceed 10 percent of the principal amount of the loan, however.

Mr. President, I submit that this amendment is greatly needed as a method to encourage the building of expanded and new refineries. The idea for this amendment, quite frankly, came from the experience that a prospective refiner is having in Louisiana. With plans all laid to build a refinery, the prospective refiner found, on account of the Middle Eastern cutoff, that it was totally impossible to get any assurance of any supply of crude oil. In order to proceed with construction of this much-needed refinery, the prospective refiner either had to contract to spend tremendous sums of money without any assurance at all of a source of crude, or stop the building of the refinery and thus lose the right to take delivery of equipment that will take a substantial period of time to obtain if it must be reordered.

This amendment is in response to that kind of situation—a situation involving the independent refiner, which is the only real sources of gasoline and other products to the independent distributor.

Mr. President, I submit that this approach contained in my amendment is badly needed in order to insure the building of new refineries by independent refiners.

The PRESIDING OFFICER (Mr. Nunn). The Senate will be in order. The Senator is entitled to be heard.

Mr. JOHNSTON. Mr. President, I shall be available for any questions on this amendment this afternoon. It will come up for a vote immediately prior to the 5 o'clock vote.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 686 AS MODIFIED

Mr. MATHIAS. Mr. President, I ask unanimous consent that amendment No. 686, which was the subject of debate this morning, may be modified at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I send to the desk the modified amendment.

Mr. Mathias amendment (No. 686), as modified, is as follows:

On page 30, beginning with line 21, strike out all through line 20 on page 31, and insert in lieu thereof the following:

ADMINISTRATIVE PROCEDURE IN ORDER TO INSURE ACCOUNTABILITY AND DUE PROCESS

Sec. 309. (a) The functions exercised under this Act are excluded from the operation of subchapter 2 of chapter 5, and chapter 7 of title V, United States

Code, except as to the requirements of sections 552, 555(c) and (e), and 702 and exception as to the requirements of section 553 as modified by subsection (b) of this section.

(b) All rules, regulations, or orders promulgated pursuant to this Act shall be subject to the provisions of section 553 of title V of the United States Code except that all rules, regulations, or orders promulgated must provide for the following:

(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this Act in the Federal Register. In each case, a minimum of five days following such publication shall be provided for opportunity to comment.

(2) Public notice of all rules, regulations, or orders promulgated by a State pursuant to section 203 of this Act shall be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) Any agency authorized by the President or by this Act to issue rules, regulations, or orders under sections 203, 204, 205, 206, 207, and 312 of this Act shall hold public hearings on those rules, regulations, or orders which the agency determines in its discretion are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than sixty days after the implementation of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

Any agency authorized by the President or by this Act to issue rules, regulations, or orders may not waive any of the requirements set forth in this subsection except that the requirements set forth in subsection (b)(1) as to time of notice and opportunity to comment may be waived where strict compliance is found to cause grievous injury to the operation of the program and such findings are set out in detail in the rules, regulations, or orders.

(c) (1) In addition to the requirements of section 552 of title V of the United States Code, any agency authorized by the President or by this Act to issue rules, regulations, or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order with such modifications as are necessary to insure confidentiality protected under the Freedom of Information Act. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules, regulations, or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under the Freedom of Information Act.

(2) Any agency authorized by the President to issue rules, regulations, or orders under this Act shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(d) All proposals which the President submits for the approval of the Congress pursuant to section 301 of this Act and subsequent amendments and modifications thereto for the emergency fuel shortage contingency programs provided for in title II of this Act and for implementing such programs shall include the following:

(1) findings of fact and a specific statement explaining the rationale for each provision contained in such proposals.

(2) proposed procedures for the removal of the restrictions imposed by such plan or program, and

(3) a schedule for implementing the provisions of section 552 of title V of the United States Code.

Mr. MATHIAS. I ask for the yeas and nays on the amendment as modified.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I asked unanimous consent previously that it be in order, prior to the voting, to order the yeas and nays on all amendments for which there has been a request for the yeas and nays. I ask unanimous consent that it now be in order to order the yeas and nays on all amendments previously submitted and for which the yeas and nays have been requested.

The PRESIDING OFFICER. That unanimous consent has already been granted.

Mr. JACKSON. I ask for the yeas and nays.

The yeas and nays were ordered on the several amendments, as previously agreed to by unanimous consent.

Mr. MANSFIELD. Mr. President, as I understand, the first vote will take the usual 15 minutes, but all votes thereafter will be accomplished in 10 minutes?

The PRESIDING OFFICER. The Senator is correct; there is an order to that effect.

Mr. RIBICOFF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RIBICOFF. Is amendment 678 included in that order for the yeas and nays?

The PRESIDING OFFICER. Amendment 678 is included.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Bayh amendment be set aside until after the completion of the rollcall votes, and that it be the pending order of business immediately thereafter.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. I yield.

Mr. BARTLETT. I would like to ask the distinguished Senator from Louisiana concerning the amendment he just presented, am I correct in understanding that this country imports about 3 million more barrels of crude oil than we have refinery capacity to refine?

Mr. JOHNSTON. That is correct.

Mr. BARTLETT. And am I also correct that we have had this same problem for a long time that the Senator's amendment proposes to remedy, of not having an assured supply of crude oil, that even though we had an abundance of crude oil there was no way that a refiner could be satisfied of knowing that he would have sufficient throughput through his refinery to keep the refinery fully busy, so that he could amortize his investment? Is that correct?

Mr. JOHNSTON. That is correct. It is also correct that the National Petroleum Council has estimated that by 1975 we will require increased refinery capacity of 4.8 million barrels per day to meet our domestic needs. In other words, by 1975 we will need additional refineries, which we do not now have, capable of refining 4.8 million barrels per day. It is imperative that we do something now to deal with what is obviously going to be an even more serious refinery shortage just a few years from now. My amendment would, I believe, provide significant assistance in solving that problem.

Mr. BARTLETT. Am I also correct that this will be beneficial to the entire country, and not necessarily just to one geographical region of the country?

Mr. JOHNSTON. Unquestionably that is true. As a matter of fact, it will probably be more helpful outside our section of the country, because Louisiana and Texas right now are the leading refining States of the country. Refining capacity in the Northeast is virtually nonexistent. At least, I would say, in the last 5 or 6 years not a single new refinery has been started in the Northeast, and this country badly needs new refineries in those areas in order to meet the energy demands of the 1970's and thereafter.

Mr. BARTLETT. Mr. President, I congratulate the distinguished Senator from Louisiana for this farsighted amendment. I support it, and urge our colleagues to do likewise.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. GRIFFIN. Mr. President, because of the unusual nature of the voting that will take place, with 9 or 10 votes to occur and only 10 minutes per vote, I wonder, for the benefit of Senators who have not been in the Chamber, if there could be stated now the order in which these votes will occur, and what the questions will be.

The PRESIDING OFFICER (Mr. Nunn). The first question will be on the motion to table amendment No. 656, the Helms amendment. If that fails, the next vote will be on the amendment itself. Then there will be a vote on the Ribicoff amendment (No. 678). Next there will be a vote on the Hansen amendment (No. 682), followed by Fannin amendments (Nos. 690, 691, 692, 693, and 671), followed by a vote on the Jackson amendment (No. 685).

Mr. GRIFFIN. Will the Chair read more slowly?

The PRESIDING OFFICER. Would the Senator like the Chair to start over?

Mr. GRIFFIN. Yes.

The PRESIDING OFFICER. First the motion to table the Helms amendment (No. 656). Then if that fails, the vote on the amendment itself. Second, the Ribicoff amendment (No. 678). That could be the third vote, depending on the outcome of the motion to table the Helms amendment.

Next would be the Hansen amendment (No. 682).

Next would be five amendments by Senator Fannin, as follows: Amendments Nos. 690, 691, 692, 693, and 671.

Next would be a vote on the Jackson amendment (No. 685) to be followed by the vote on the Mathias amendment (No. 686) as modified.

Mr. GRIFFIN. I thank the Chair.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived, the Senate will now proceed to vote on the motion to table amendment No. 656 of the Senator from North Carolina (Mr. Helms).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting the Senator from Massachusetts (Mr. Kennedy) would vote "yea."

I further announce that, if present and voting the Senator from Alabama (Mr. Allen) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Illinois (Mr. Percy) is paired with the Senator from Nebraska (Mr. Curtis). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 48, nays 39, as follows:

[No. 493 Leg.]

YEAS—48

Abourezk	Hatfield	Packwood
Bayh	Hathaway	Pastore
Bellmon	Hughes	Pearson
Biden	Humphrey	Pell
Brooke	Inouye	Randolph
Burdick	Jackson	Ribicoff
Cannon	Javits	Schweiker
Case	Magnuson	Scott, Hugh
Church	Mansfield	Stafford
Clark	Mathias	Stevens
Cranston	McGee	Stevenson
Eagleton	McGovern	Symington
Gravel	McIntyre	Taft
Hart	Montoya	Tunney
Hartke	Moss	Weicker
Haskell	Muskie	Williams

NAYS—39

Aiken	Dominick	Long
Bartlett	Eastland	McClellan
Beall	Ervin	Metcalfe
Bennett	Fannin	Nunn
Bentsen	Fulbright	Proxmire
Bible	Goldwater	Roth
Brock	Griffin	Saxbe
Buckley	Gurney	Scott, William L.
Byrd, Harry F., Jr.	Hansen	Talmadge
Byrd, Robert C.	Helms	Thurmond
Chiles	Hollings	Tower
Cook	Hruska	Young
Dole	Johnston	
Domenici		

NOT VOTING—13

Allen	Huddleston	Percy
Baker	Kennedy	Sparkman
Cotton	McClure	Stennis
Curtis	Mondale	
Fong	Nelson	

So the motion to table Mr. Helms' amendment (No. 656) was agreed to.

The PRESIDING OFFICER. Under the previous order, the question recurs on the amendment by the Senator from Connecticut (Mr. Ribicoff). The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Illinois (Mr. Percy) would each vote "yea."

[No. 494 Leg.]

YEAS—73

Abourezk	Griffin	Moss
Bayh	Gurney	Muskie
Beall	Hansen	Nunn
Bentsen	Hart	Packwood
Bible	Hartke	Pastore
Biden	Haskell	Pearson
Brooke	Hatfield	Pell
Buckley	Hathaway	Proxmire
Burdick	Hollings	Randolph
Byrd, Harry F., Jr.	Hughes	Ribicoff
Byrd, Robert C.	Humphrey	Roth
Cannon	Inouye	Saxbe
Case	Jackson	Schweiker
Chiles	Javits	Scott, Hugh
Church	Johnston	Stafford
Clark	Long	Stevenson
Cook	Magnuson	Symington
Cranston	Mansfield	Taft
Dole	Mathias	Talmadge
Domenici	McClelland	Tunney
Dominick	McGee	Weicker
Eagleton	McGovern	Williams
Eastland	McIntyre	Young
Ervin	Metcalf	
Gravel	Montoya	

NAYS—13

Aiken
Bartlett
Bellmon
Bennett
Brock

Fannin
Goldwater
Helms
Hruska
Scott, William L.

Stevens
Thurmond
Tower

NOT VOTING—14

Allen
Baker
Cotton
Curtis
Fong

Fulbright
Huddleston
Kennedy
McClure
Mondale

Nelson
Percy
Sparkman
Stennis

So Mr. Ribicoff's amendment was agreed to. [Sec. 308.]

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to amendment No. 682, offered by the Senator from Wyoming (Mr. Hansen). The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), the Senator from Mississippi (Mr. Stennis), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. Stevenson) and the Senator from Massachusetts (Mr. Kennedy) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 21, nays 64, as follows:

[No. 495 Leg.]

YEAS—21

Bartlett
Bellmon
Bennett
Brock
Cook
Dominick
Eastland
Fannin

Goldwater
Griffin
Hansen
Helms
Hruska
Johnston
Long
McClellan

Scott, William L.
Stevens
Thurmond
Tower
Young

NAYS—64

Abourezk	Gravel	Muskie
Aiken	Gurney	Nunn
Bayh	Hart	Packwood
Beall	Hartke	Pastore
Bentsen	Haskell	Pearson
Bible	Hatfield	Pell
Biden	Hathaway	Proxmire
Brooke	Hollings	Randolph
Buckley	Hughes	Ribicoff
Burdick	Humphrey	Roth
Byrd, Harry F., Jr.	Inouye	Saxbe
Byrd, Robert C.	Jackson	Schweiker
Cannon	Javits	Scott, Hugh
Case	Magnuson	Stafford
Chiles	Mansfield	Symington
Church	Mathias	Taft
Clark	McGee	Talmadge
Cranston	McGovern	Tunney
Dole	McIntyre	Weicker
Domenici	Metcalf	Williams
Eagleton	Montoya	
Ervin	Moss	

NOT VOTING—15

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	Stennis
Fong	Mondale	Stevenson

So Mr. Hansen's amendment (No. 682) was rejected.

The PRESIDING OFFICER. Under the previous order, the vote now occurs on the amendment of the Senator from Arizona (Mr. Fannin) No. 690. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent on official business.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Illinois (Mr. Percy) is paired with the Senator from Nebraska (Mr. Curtis). If present and voting, the Senator from Illinois would vote "yea" and the senator from Nebraska would vote "nay."

[No. 496 Leg.]

YEAS—25

Bartlett	Fannin	McClellan
Beall	Goldwater	Pearson
Bellmon	Griffin	Saxbe
Bennett	Gurney	Stevens
Brock	Hansen	Thurmond
Buckley	Hatfield	Tower
Dole	Helms	Weicker
Domenici	Hruska	
Eastland	Long	

NAYS—61

Abourezk	Gravel	Muskie
Aiken	Hart	Nunn
Bayh	Hartke	Packwood
Bentsen	Haskell	Pastore
Bible	Hathaway	Pell
Biden	Hollings	Proxmire
Brooke	Hughes	Randolph
Burdick	Humphrey	Ribicoff
Byrd,	Inouye	Roth
Harry F., Jr.	Jackson	Schweiker
Byrd, Robert C.	Javits	Scott, Hugh
Cannon	Johnston	Scott,
Case	Magnuson	William L.
Chiles	Mansfield	Stafford
Church	Mathias	Stevenson
Clark	McGee	Symington
Cook	McGovern	Taft
Cranston	McIntyre	Talmadge
Dominick	Metcalf	Tunney
Eagleton	Montoya	Williams
Ervin	Moss	Young

NOT VOTING—14

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	Stennis
Fong	Mondale	

So Mr. Fannin's amendment was rejected.

The PRESIDING OFFICER (Mr. Johnston). Under the previous order, the question is on agreeing to the amendment No. 691 of the Senator from Arizona (Mr. Fannin). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Illinois (Mr. Percy) would each vote "yea."

The result was announced—yeas 27, nays 60, as follows:

[No. 497 Leg.]

YEAS—27

Bartlett	Gurney	Scott, William L.
Bellmon	Hansen	Stafford
Bennett	Haskell	Taft
Biden	Hathaway	Thurmond
Brock	Helms	Tower
Buckley	Hruska	Weicker
Clark	McIntyre	Young
Domenici	Proxmire	
Fannin	Roth	
Griffin	Saxbe	

NAYS—60

Abourezk	Goldwater	Montoya
Aiken	Gravel	Moss
Bayh	Hart	Muskie
Beall	Hartke	Nunn
Bentsen	Hatfield	Packwood
Bible	Hollings	Pastore
Brooke	Hughes	Pearson
Burdick	Humphrey	Pell
Byrd, Harry F., Jr.	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Cannon	Javits	Schweiker
Case	Johnston	Scott, Hugh
Chiles	Long	Stennis
Church	Magnuson	Stevens
Cook	Mansfield	Stevenson
Cranston	Mathias	Symington
Dole	McClellan	Talmadge
Dominick	McGee	Tunney
Eagleton	McGovern	Williams
Eastland	Metcalf	
Ervin		

NOT VOTING—13

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	
Fong	Mondale	

So Mr. Fannin's amendment (No. 691) was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. (Mr. Helms). Under the previous order, the question now occurs on agreeing to amendment No. 692 of the Senator from Arizona (Mr. Fannin).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 24, nays 63, as follows:

[No. 498 Leg.]

YEAS—24

Bartlett
Bellmon
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Church
Domenici

Fannin
Goldwater
Griffin
Gurney
Hansen
Hatfield
Helms
Hruska

McClellan
Roth
Saxbe
Scott, William L.
Stevens
Thurmond
Tower
Young

NAYS—63

Abourezk
Aiken
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cranston
Dole
Dominick
Eagleton
Eastland
Ervin

Gravel
Hart
Hartke
Haskell
Hathaway
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Montoya

Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stennis
Stevenson
Symington
Taft
Talmadge
Tunney
Weicker
Williams

NOT VOTING—13

Allen
Baker
Cotton
Curtis
Fong

Fulbright
Huddleston
Kennedy
McClure
Mondale

Nelson
Percy
Sparkman

So Mr. Fannin's amendment (No. 692) was rejected.

The PRESIDING OFFICER. Under the previous order, the question now is on the amendment of the Senator from Arizona, amendment No. 693. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis), are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Illinois (Mr. Percy) would each vote "nay."

The result was announced—yeas 17, nays 69, as follows:

[No. 499 Leg.]

YEAS—17

Bartlett
Bellmon
Bennett
Brock
Dominick
Eastland

Fannin
Goldwater
Griffin
Gurney
Hansen
Helms

Hruska
Saxbe
Scott, William L.
Thurmond
Tower

NAYS—69

Abourezk
Aiken
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.

Byrd, Robert C.,
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton

Ervin
Gravel
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hughes
Humphrey
Inouye

Jackson	Montoya	Schweiker
Javits	Moss	Scott, Hugh
Johnston	Muskie	Stafford
Long	Nunn	Stevens
Magnuson	Packwood	Stevenson
Mansfield	Pastore	Symington
Mathias	Pearson	Taft
McClellan	Pell	Talmadge
McGee	Proxmire	Tunney
McGovern	Randolph	Weicker
McIntyre	Ribicoff	Williams
Metcalf	Roth	Young

NOT VOTING—14

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	Stennis
Fong	Mondale	

So Mr. Fannin's amendment (No. 693) was rejected.

The PRESIDING OFFICER. Under the previous order the question now occurs on amendment No. 671 of the Senator from Arizona. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Illinois (Mr. Percy) would each vote "nay."

The result was announced—yeas 27, nays 59, as follows:

[No. 500 Leg.]

YEAS—27

Bartlett	Dominick	Mathias
Beall	Fannin	Muskie
Bennett	Goldwater	Pearson
Brock	Griffin	Roth
Buckley	Gurney	Saxbe
Byrd, Harry F., Jr.	Hansen	Stevenson
Cook	Helms	Taft
Dole	Hruska	Thurmond
Domenici	Javits	Tower

NAYS—59

Abourezk	Hart	Nunn
Aiken	Hartke	Packwood
Bayh	Haskell	Pastore
Bellmon	Hatfield	Pell
Bentsen	Hathaway	Proxmire
Bible	Hollings	Randolph
Biden	Hughes	Ribicoff
Brooke	Humphrey	Schweiker
Burdick	Inouye	Scott, Hugh
Byrd, Robert C.	Jackson	Scott, William I.
Cannon	Johnston	Stafford
Case	Magnuson	Stennis
Chiles	Mansfield	Stevens
Church	McClellan	Symington
Clark	McGee	Talmadge
Cranston	McGovern	Tunney
Eagleton	McIntyre	Weicker
Eastland	Metcalf	Williams
Ervin	Montoya	Young
Gravel	Moss	

NOT VOTING—14

Allen	Fulbright	Mondale
Baker	Huddleston	Nelson
Cotton	Kennedy	Percy
Curtis	Long	Sparkman
Fong	McClure	

So Mr. Fannin's amendment (No. 671) was rejected.

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 685 by the Senator from Washington. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis), are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston), is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis), and the Senator from Illinois (Mr. Percy) would each vote "yea."

The result was announced—yeas 85, nays 1, as follows:

[No. 501 Leg.]

YEAS—85

Abourezk
Aiken
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin

Fannin
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
Metcalf
Montoya

Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—1

McIntyre

NOT VOTING—14

Allen
Baker
Cotton
Curtis
Fong

Fulbright
Huddleston
Kennedy
McClure
Mondale

Nelson
Percy
Sparkman
Stennis

So Mr. Jackson's amendment (No. 685) was agreed to. **[Secs. 101(h), 102(h), 1312.]**

The PRESIDING OFFICER. (Mr. Helms). Under the previous order, the question occurs on the amendment of the Senator from Maryland, amendment No. 686, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Mississippi (Mr. Stennis), are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. Fulbright) and the Senator from Massachusetts (Mr. Kennedy) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Illinois (Mr. Percy) is paired with the Senator from Nebraska (Mr. Curtis). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 79, nays 7, as follows:

[No. 502 Leg.]

YEAS—79

Abourezk	Griffin	Muskie
Aiken	Gurney	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pastore
Beall	Hartke	Pearson
Bentsen	Haskell	Pell
Bible	Hatfield	Proxmire
Biden	Hathaway	Randolph
Brooke	Helms	Ribicoff
Buckley	Hollings	Roth
Burdick	Hughes	Saxbe
Byrd, Harry F., Jr.	Humphrey	Schweiker
Byrd, Robert C.	Inouye	Scott, Hugh
Cannon	Jackson	Stafford
Case	Javits	Stevens
Chiles	Johnston	Stevenson
Church	Long	Symington
Clark	Magnuson	Taft
Cook	Mansfield	Talmadge
Cranston	Mathias	Thurmond
Domenici	McClellan	Tower
Dominick	McGee	Tunney
Eagleton	McGovern	Weicker
Eastland	McIntyre	Williams
Ervin	Metcalf	Young
Fannin	Montoya	
Gravel	Moss	

NAYS—7

Bellmon	Dole	Scott, William L.
Bennett	Goldwater	
Brock	Hruska	

NOT VOTING—14

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	Stennis
Fong	Mondale	

So Mr. Mathias' amendment (No. 686), as modified, was agreed to. [Sec. 309.]

The PRESIDING OFFICER (Mr. Helms). Pursuant to the previous order, the question is on agreeing to the amendment (No. 689) of the Senator from Indiana (Mr. Bayh), which the clerk will state.

The assistant legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. What is the time limitation?

The PRESIDING OFFICER. 10 minutes, 5 minutes on each side.

Mr. BAYH. Mr. President, I think perhaps that the most efficient way to discuss the thrust of my amendment is just to read it. Normally we ask the clerk to dispense with the reading of the amendment, but I would like to read it to the Senate because it makes very clear what we are trying to do:

On page 17, line 18,—

Which is immediately following the reference to speed limits—
[Sec. 203(b)(2)]

change the period at the end thereof to a colon and add the following: "*Provided, however, That any such reduction shall not be recommended or made effective for commercial motor vehicles operating in interstate commerce except upon the basis of a finding by the Secretary of Transportation that such reduction will in fact lead to fuel savings for specific classes and weights of vehicles, and that the savings to be realized therefrom will, in the judgment of the Secretary of Transportation that such reduction will in fact lead to fuel savings for specific classes and weights of vehicles, and that the savings to be realized therefrom will, in the judgment of the Secretary, be of sufficient magnitude to compensate for the economic disruption attendant upon changes in routing, scheduling, and working conditions necessitated by the imposition of a lower speed limit.*"

We have heard and read a great deal about inconvenience because of certain laws relative to the amount of time people can drive commercial vehicles, the scheduling and routing, and that kind of business.

This amendment goes primarily to the whole thrust of the bill: Will lowering the speed limit result in a lesser consumption of fuel?

It ought to be relatively simple for the Secretary to make an assessment, either by looking at studies that have already been made or by making one on his own. If lowering the speed of a certain commercial vehicle will indeed result in less consumption of gasoline, than lower it. If not, why go through the cosmetics and the inconvenience which will result if that is not the case?

I had hoped I could prevail on my distinguished colleague the floor manager of the bill (Mr. Jackson) to accept the amendment, but after discussing it with him and his staff. I think that is perhaps too optimistic a conclusion to reach at this time.

Mr. JACKSON. Mr. President, I regret that I cannot agree with my colleague. I would like to accept the amendment, but we would be making a specific exemption here in connection with commercial trucks.

I point out that a farmer who operates a truck across State lines for his own purposes certainly would not have a commercial truck, and I would prefer that this sort of thing be handled by regulation.

On page 18 of the committee report accompanying this measure, we recognize this need with some explanatory language. Let me read the following:

The committee recognizes that certain conservation measures may affect various sectors of the economy in different ways. For speed limit reductions may affect commercial trucking more seriously than private commuters.

I recognize that fact.

Continuing reading:

These factors should be taken into account in developing programs pursuant to this Act. However, such inconveniences must be weighed against the fuel savings to be gained. A reduction of maximum driving speeds to 50 miles per hour, for example, would result in fuel savings equivalent to 250,000 barrels per day.

Now, Mr. President, the sole question for the Senate to decide is whether we want to spring out of that limitation which we ask the President to impose and say that for commercial motor vehicles—that is the exact language—we will make an exception. It seems to me this matter should be left to regulation. We do have serious transportation problems in the trucking area. I would hope they can work it out. But I would hate to turn around and make a specific exemption for this particular mode of transportation. I would prefer that the matter be left to the executive branch to work out the details.

There are other situations that will arise where there is probably justification for going beyond 50 miles an hour. In the trucking industry there is a special problem, but I would not want to make a statutory exemption there.

Mr. CASE. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. CASE. Is not the safety problem also involved here?

Mr. JACKSON. The Senator is correct.

Mr. CASE. That is a serious matter which suggests that it should be left to the discretion of the administration.

Mr. JACKSON. In Germany, by the way—not that that is a precedent—they have just reduced their speed limit on trucks over there, my staff informs me, and as a result the accident rate has been reduced by 30 percent.

We had this matter up in committee. An amendment was offered in committee. It was voted down. It is up to the Senate to decide whether we will start springing out areas for exemption. I would rather delegate this broad authority to the executive branch to work out what modes of transportation should be given a different speed limit than others, if it can be justified. But my own feeling is, I do not have the expertise in this area. I would oppose the amendment.

Mr. BAYH. I should like to make it very clear that we are not asking for an exemption—not at all. What we are saying is that the purpose of the bill is to conserve fuel, so that if there are certain classes of vehicles which because of size, gear ratio, and so forth, can operate more efficiently and use less fuel at 55 miles an hour than at 50 miles an hour, why not let them operate at 55 miles an hour? Why make them operate at 50 miles an hour. I do not have the expertise to make that judgment. I am willing to let the Secretary make that judgment, but before he does so, I want Congress to say that he has to make a finding of fact that we are actually saving fuel. I expect that we will find we will save. But I do not know. There have been some studies made about

some vehicles, which would lead one to believe that 55 miles or 60 miles an hour will save fuel rather than going down to 50 miles an hour.

I say, let us find out the facts before we go through and lower the speed limit.

Mr. FANNIN. Mr. President, some buses traveling 50 miles an hour would use more gas than they would at a speed of 60 miles an hour in accordance with a report I have from a very reliable source; namely, the Greyhound Bus Co. This is the best illustration I can give—their buses do not even go into high gear until 48 to 52 miles an hour, so it would be difficult for them to travel in a lower gear. It would be self-defeating to say that a large bus or a large truck must travel at speeds of no more than 50 miles an hour.

Some people have suggested that the transmission should be altered, but that seems like a very complex matter. I think that the Senator from Indiana (Mr. Bayh) has made a very good proposal. It would require that a study and a determination be made, which seems very vital to what we are trying to do here. If a bus can be more efficient at 60 miles an hour, it should be permitted to travel 60 miles an hour. Concerning safety, they have one of the finest safety records in the country. In fact, professional drivers have the best safety records of any drivers in the country.

Mr. President, as I just pointed out, authorities on bus transportation have informed me that a 50-mile-per-hour speed limit will be self-defeating in trying to relieve the energy shortage.

A bus traveling at 50 miles per hour is actually burning fuel at a higher rate than a bus going 60 miles per hour.

At the lower speed of just under 50 a bus is still in third gear. It does not go into high gear until it is going 50 to 55 mi/h so at the slower speed the motor is lugging and operating inefficiently.

Some people have suggested that the buses could be altered. The problem here, as I understand it, is that this would require changing the rear axle ratios in every bus. This would be expensive and, I am told, it would be impossible because there are not enough parts available to make a modification. At any rate, that is not the answer.

The immediate problem of the bus companies is one of scheduling and capacity.

At least one State already has lowered the speed limit on its major highway and others appear ready to do the same.

Suddenly bus schedules are thrown out of kilter. Bus riders will find that they can no longer make acceptable connections with other buses or other transportation at a given destination. In short, there will be chaos for those who rely on bus transportation.

The bus companies face a tremendous manpower problem. They cannot possibly make all the adjustments in working schedules if buses are required to run at slower speeds.

Another problem is the obvious fact that if buses have to run at slower speeds it will require more buses on the road to meet the demand. This means additional fuel consumption—not less.

Some authorities are suggesting that perhaps buses and trucks which operate efficiently only at higher speeds be allowed to travel faster. This might encourage some motorists in cars to take buses and thus arrive quicker at their destinations.

A recent study indicated that buses get 85 passenger miles per gallon of fuel and therefore are the most efficient of all means of transportation.

It appears to me that we really should take a close look at the idea of reducing speed limits. The arguments that I have heard concerning commercial vehicles—trucks and buses—make it appear that this would cause serious problems and may result in higher fuel consumption rather than reduced consumption in the shipment of goods and people.

Mr. JACKSON. Mr. President, I shall be very brief. The bill of course does not state a 50-mile-an-hour speed limit. It gives authority to the President, through the appropriate agencies, of course, to set the speed limits. I would want to make that very clear.

Let me ask a simple question: What about a man in the contract business who has trucks of his own in connection with his work? He is not covered by this exemption because it is not a commercial vehicle in interstate commerce. Are we going to say here that because he is moving equipment, he will be at a different speed than someone who is in the interstate business?

This is full of holes and trouble. I would prefer to have that authority delegated so that there can be a sensible set of guidelines worked out.

I would hope that this matter would not be brought to a rollcall vote now, since we would get into another area which will consume more time of the Senate. But, I deeply appreciate the Senator's position, and I understand what he is trying to do. I merely point out the pitfalls involved when we try to make such exemptions.

Mr. BAYH. Mr. President, I want to stress the fact that some people in the trucking industry and in the bus industry say we should exempt them completely, that we should write into the law not 50 miles an hour or 55 miles an hour but 60 miles an hour, which I think would be totally responsible. I appreciate the fact that the committee, under the leadership of the distinguished Senator from Washington (Mr. Jackson) has resisted that, but I believe, if we are going to lower the speed limit on any vehicle, we should first have finding of fact.

We have had enough studies on cars to show that when we lower the speed to 50 miles an hour we do save fuel, but we do not have it on the other kinds of vehicles. That is what I am asking.

Mr. JACKSON. I assume that they will make that finding in every area. I would not expect they would come up with speed limits not related to savings in gasoline. It should apply to all the areas and to all the categories that will be affected.

The PRESIDING OFFICER (Mr. Helms). All time on this amendment has now expired.

The question is on agreeing to the amendment of the Senator from Indiana (Mr. Bayh).

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana (Mr. Bayh).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 25, nays 63, as follows:

[No. 503 Leg.]

YEAS—25

Bartlett	Dominick	Inouye
Bayh	Fannin	Montoya
Beall	Fullbright	Randolph
Bellmon	Gravel	Stevens
Bentsen	Griffin	Talmadge
Bible	Hansen	Thurmond
Brock	Hartke	Tower
Brooke	Helms	
Cannon	Hruska	

NAYS—63

Abourezk	Hart	Nunn
Aiken	Haskell	Packwood
Bennett	Hatfield	Pastore
Biden	Hathaway	Pearson
Buckley	Hollings	Pell
Burdick	Hughes	Proxmire
Byrd, Harry F., Jr.	Humphrey	Ribicoff
Byrd, Robert C.	Jackson	Roth
Case	Javits	Saxbe
Chiles	Johnston	Schweiker
Church	Long	Scott, Hugh
Clark	Magnuson	Scott, William L.
Cook	Mansfield	Stafford
Cranston	Mathias	Stennis
Dole	McClellan	Stevenson
Domenici	McGee	Symington
Eagleton	McGovern	Taft
Eastland	McIntyre	Tunney
Ervin	Metcalf	Weicker
Goldwater	Moss	Williams
Gurney	Muskie	Young

NOT VOTING—12

Allen
Baker
Cotton
Curtis

Fong
Huddleston
Kennedy
McClure

Mondale
Nelson
Percy
Sparkman

So Mr. Bayh's amendment was rejected.

The PRESIDING OFFICER. The Senator from Oklahoma (Mr. Bellmon) is recognized under the previous order to call up two amendments, on each of which there is a 10-minute time limitation, with 5 minutes on a side.

Mr. BELLMON. Mr. President, I call up my amendment, No. 674, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of section 207, page 26, between lines 12 and 13, insert the following new subsection:

() (1) The antitrust laws, as defined in section 1 of the Act of October 15, 1914 (15 U.S.C. 12) and in the Federal Trade Commission Act (15 U.S.C. 41 et seq.) shall not apply to any joint agreement by or among persons engaged in the production or development of energy resources, including but not limited to secondary and tertiary recovery of crude oil and gas and extraction of sulfur from coal, natural gas, and crude oil, if such agreement is solely for the purpose of carrying out research to improve such production or development.

(2) As used in this section "person" means any individual, partnership, corporation, or unincorporated association or any combination or association thereof.

(3) Nothing in this section shall affect any cause of action existing on the date of enactment of this section.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HATHAWAY. Mr. President, will the Senator yield for 30 seconds?

Mr. BELLMON. I yield.

Mr. HATHAWAY. I wish to direct a question to the Junior Senator from Missouri on the amendment the Senator offered which provides for criminal penalties in the bill. Does that amendment apply to all sections of the bill as it has been amended, and all known amendments we have at the desk?

Mr. EAGLETON. The Senator is correct. It does so apply.

Mr. HATHAWAY. I thank the Senator.

Mr. BELLMON. Mr. President, the purpose of the amendment is to make it possible for companies involved in the energy business to be exempt from the antitrust laws so far as research and development is concerned.

I wish to give a brief report of where we stand so far as the recovery of crude oil is concerned. These figures relate to other types of energy, as well.

I have before me a paper prepared by the Department of the Interior in which they report that their current total recovery of crude is about 31 percent of the oil that has been discovered to date. That means that 69 percent of all the oil remains in the ground, in spite of the best efforts to recover. It further states that the rate of improvement appears to be diminishing. This was reported in the first annual report to Congress under the Mining and Mineral Policy Act of 1970 by the Secretary of the Interior. The Secretary stated:

The rate of improvement in recovery efficiency appears to be diminishing rapidly, however. The fact that an average of only one-third of the discovered

oil in the ground is being recovered currently, and that significant oil deposits are becoming more difficult to find, emphasizes the need for continuing research effort in these areas.

Much of the production capacity that has been added in recent years has been obtained through technologic advances, but further dramatic increases are generally not anticipated at current costs and price levels. Yet, the potential for stimulation is great. An increase of only 1 percent of the average recovery of oil in place would yield approximately 4.3 billion barrels, or 2 million barrels per day for 12 years.

We recognize we are in an energy crisis, yet just beyond our reach is the possibility of adding 2 million barrels a day to this Nation's oil supply, as we take steps to encourage the research and development.

An article from the Oil and Gas Journal, which is the bible of the oil industry, stated on May 8, 1972, at page 21:

... There is no breakthrough in sight which would permit the industry to recover a significantly larger percentage of oil it now must leave behind. And there is no buildup in spending toward achieving such a breakthrough ...

The same Journal stated in the same issue at page 22:

... The principle hope ... appears to be cooperative effort and sharing of recovery research data with competitors ... Most companies, fearing possible anti-trust actions, have to clear participation ... through their legal departments ...

To me, Mr. President, this is ridiculous. Here we are energy companies that want to work together to improve methods to be used in recovering oil that we desperately need and yet they are limited by ridiculous or over-restrictive antitrust requirements.

Despite the benefits to be derived from research, proprietary interests and antitrust restrictions tend to restrict the transfer of technology between companies. Even if results are released in a timely fashion through publication, the complexity of modern petroleum technology is such that years are required for use by the thousands of smaller firms who constitute a major segment of the oil industry. If advanced technology is to provide short-run benefits to this Nation, a mechanism must be found to increase the rate of technologic transfer.

Mr. President, to sum up, the amount of oil we are dealing with here is immense. It is estimated 160-billion barrels of oil could be recovered and 300 trillion cubic-feet of natural gas could be recovered. That is enough crude oil to last 25 years and enough gas to last 15 years.

MR. JACKSON. Mr. President, I would like to yield 1 minute to the Senator from Tennessee on another matter and then I shall respond to the question raised by the Senator from Oklahoma.

THE PRESIDING OFFICER. The Senator from Tennessee is recognized.

AN AMENDMENT INTENDED TO BE PROPOSED

MR. BROCK. Mr. President, I ask unanimous consent to have printed in the Record an amendment I intended to propose.

THE PRESIDING OFFICER. Without objection, it is so order.

The amendment is as follows:

On page 30, insert the following between line 18 and 19:

SEC. 308(c) (1) In carrying out the provisions of this Act, Section 203(a) (3) of the Economic Stabilization Act of 1970, as amended, and the Emergency Petro-

leum Allocation Act of 1973, the President, or his designee, may employ persons of outstanding experience and ability with or without compensation.

(2) The President may exempt any person employed pursuant to subsection (c) (1) of this section from the provisions of section 203, 205, 208 and 209 of title 18 of the United States Code if the public interest so requires, except that—

(i) exemption hereunder shall not extend to the negotiation or execution, by such person, of Government contracts with the private employer of such person or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the person has any direct or indirect interest;

(ii) exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of such person or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the person has any direct or indirect interest;

(iii) exemption hereunder shall not extend to the prosecution by such persons, or participation by the person in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the person had any responsibility during his Government service under this section, during the period of such service; and

(iv) exemption hereunder shall not extend to the receipt or payment of salary in connection with such person's Government service hereunder from any source other than the private employer of the person during Government service.

Mr. BROCK. Mr. President, the reason I submit the amendment for printing in the Record is to draw attention to the critical need for more expertise in the implementation of mandatory programs. We do not have enough manpower and more importantly we do not have enough qualified manpower. One of the first things we should do is to direct our attention to this desperate need and try to encourage industry, where possible, to donate voluntarily such management personnel to help out with the program.

Mr. JACKSON. Mr. President, I am in sympathy with the amendment. As a matter of fact, we are going to have to proceed at an appropriate time to bring in people as we did in World War II and the Korean war who are familiar with the business operation. We did not have a chance to go into this matter. It involves many conflict-of-interest statutes. We will take this matter up when we take up the question of the establishment of the office that Governor Love requested in his letter to us today with an appropriate amendment.

I assure him that we will give this matter priority so we can get moving on it.

Mr. BROCK. I am very grateful to the Senator. I think it deserves it. We cannot implement this program without it.

Mr. JACKSON. I agree with the Senator.

Mr. President, the Senator from Michigan wishes to respond to this amendment. I want to take 30 seconds, and I will yield the remainder of the time to the Senator from Michigan, who is chairman of the Antitrust and Monopoly Subcommittee.

I would point out that there have been no hearings on this question and we have the antitrust statutes and the Trade Commission Act regarding this particular proposal. I do think the Senator from Oklahoma has raised a question on which there should be some kind of record with appropriate legislation to encourage research and development on a joint venture basis. However, I will have to oppose the amendment because we have not gone into it, we have not had hearings, and it is within the jurisdiction of the Judiciary Committee, particularly the subcommittee headed by the Senator from Michigan.

I yield the remainder of my time to him.

MR. HART. Mr. President, I would be more comfortable, as would the Senator from Washington, if we had had some hearings on this matter. I confess to having a kind of instinctive reaction to any kind of proposal, I suppose by anyone, but particularly by those who can be fairly designated as giants of the industry, that they be given some kind of exemption from the antitrust laws.

I can, in opposing this amendment, simply say that no safeguards are proposed in the amendment before us; not even is it required that there be a scrap of paper about someone entering the agreement or who shall or shall not be denied access to the fruits.

Solely to do research sounds great. That is what the auto companies said they were doing when they were discussing modifications of engines with respect to California air requirements.

I hope very much that, under the admitted crisis situation that confronts us, we will not, with the very few moments of attention we are permitted to pay to it now, undertake to create an exemption for firms whose track record with respect to antitrust is less than perfect.

THE PRESIDING OFFICER. The time on the amendment has expired.

AMENDMENT NO. 674

MR. BELLMON. Mr. President, I had 5 minutes on another amendment, No. 675. I ask unanimous consent that two of those minutes may be used on amendment 674.

THE PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MR. BELLMON. Mr. President, the statement has been made that no hearings have been held on this proposition. This is part of S. 1162 that was introduced by the Senator from Oklahoma on March 12. So it is not a surprise we are springing here today. This is a matter of much importance. The Senate has adopted amendment No. 685 by Senators Jackson, Hart, Fannin, and Buckley which deals with many other areas and gives the industry exemption from the antitrust laws or regulations. I am simply trying to add the immensely important area of research and development to the areas that have already been exempted.

THE PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

MR. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

MR. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business. The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 21, nays 57, as follows:

[No. 504 Leg.]

YEAS—31

Bartlett	Eastland	Montoya
Bellmon	Fannin	Nunn
Bennett	Goldwater	Pearson
Brock	Gravel	Saxbe
Buckley	Griffin	Scott,
Byrd,	Gurney	William L.
Harry F., Jr.	Hansen	Stevens
Cook	Helms	Talmadge
Dole	Hruska	Thurmond
Domenici	Long	Tower
Dominick	McClellan	Young

NAYS—57

Abourezk	Hart	Moss
Aiken	Hartke	Muskie
Bayh	Haskell	Packwood
Beall	Hatfield	Pastore
Bentsen	Hathaway	Pell
Bible	Hollings	Proxmire
Biden	Hughes	Randolph
Brooke	Humphrey	Ribicoff
Burdick	Inouye	Roth
Byrd, Robert C.	Jackson	Schweiker
Cannon	Javits	Scott, Hugh
Case	Johnston	Stafford
Chiles	Magnuson	Stennis
Church	Mansfield	Stevenson
Clark	Mathias	Symington
Cranston	McGee	Taft
Eagleton	McGovern	Tunney
Ervin	McIntyre	Weicker
Fulbright	Metcalf	Williams

NOT VOTING—12

Allen	Fong	Mondale
Baker	Huddleston	Nelson
Cotton	Kennedy	Percy
Curtis	McClure	Sparkman

So Mr. Bellmon's amendment (No. 674) was rejected.

AMENDMENT NO. 675

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I call up my amendment No. 675.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. Bellmon's amendment is as follows:

On page 26, between lines 12 and 13, add the following new subsection:

() (1) Notwithstanding any provision of law to the contrary, the Secretary of the Interior shall determine and put into effect, not later than ninety days after the date of enactment of this Act, with respect to mineral leases entered into or renewed thereafter, in addition to the present system of leasing, a system of payments for mineral leases on offshore Federal lands which is based on the amount of production under such leases, and which includes work performance requirements determined by the Secretary.

(2) Leases issued or renewed after enactment of this Act shall not be transferable nor may lessor acquire partners without the express consent of the Secretary of the Interior.

The PRESIDING OFFICER. The Senator has 4 minutes on this amendment.

Mr. BELLMON. Mr. President, I will take very little time. The purpose of the amendment is very simple. At the present time, when Federal leases are opened up for development, it is always done on the basis of competitive bids, and the leases go to the highest bidder. I have in my hand a chart showing the amount of dollars paid for lease bonuses since 1958, and the sum is several billion dollars.

What this amendment would do is take that many dollars out of the exploration and development funds the industry has to spend and put them into the Federal Treasury, which is a fine objective, but the problem is that with the prices we now have, in my opinion these funds would be better invested in actual drilling of wells than in paying lease bonuses. My amendment would simply make it possible for the Secretary of the Interior to work out other means of making these tracts available and getting a larger percentage of production into the Federal Treasury. The Federal Treasury would get the same amount of money, but would get it as oil was produced, and we are now interested in getting maximum production domestically from Federal acreage, where most of the reserves are now located.

That is the purpose of the amendment.

Mr. JACKSON. Mr. President, I regret that I will have to oppose the amendment. The Outer Continental Shelf Act does have the flexibility to permit a variety of methods of payment. The Secretary of the Interior has been making extensive studies in this area. Certainly the Committee on Interior and Insular Affairs should consider any amendment of the Outer Continental Shelf Act.

The Department, as I understand it, presently collects royalties on all production, and has development requirements in the lease. The amendment would not have any impact in the short term energy crisis. Modification of the basic leasing law requires careful review and hearings.

So I would hope that this amendment could be considered in the committee, in connection with the Outer Continental Shelf Act, and that we would not attempt to make changes in the leasing law without having heard from the Secretary of the Interior and without having the benefit of the Secretary's views.

It is my understanding that the Department has not made any request along this line, and I would hesitate to interfere in the management of the OCS Act in the absence of hearings that would give us a chance to get all points of view.

I will certainly be glad to get into the matter as soon as we can in connection with consideration of the Outer Continental Shelf Act.

I am prepared to yield back the remainder of my time.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield back the remainder of his time?

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Helms). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 29, nays 59, as follows:

[No. 505 Leg.]

YEAS—29

Bartlett
Beall
Bellmon
Bennett
Brock
Buckley
Cook
Dole
Domenici
Dominick

Eastland
Fannin
Goldwater
Gravel
Griffin
Gurney
Hansen
Helms
Hruska
Long

Moss
Pearson
Saxbe
Scott, William L.
Stevens
Taft
Thurmond
Tower
Young

NAYS—59

Abourezk
Aiken
Bayh
Bentsen

Bible
Biden
Brooke
Burdick

Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case

NAYS—59—Continued

Chiles	Jackson	Pell
Church	Javits	Proxmire
Clark	Johnston	Randolph
Cranston	Magnuson	Ribicoff
Eagleton	Mansfield	Roth
Ervin	Mathias	Schweiker
Fulbright	McClellan	Scott, Hugh
Hart	McGee	Stafford
Hartke	McGovern	Stennis
Haskell	McIntyre	Stevenson
Hatfield	Metcalf	Symington
Hathaway	Montoya	Talmadge
Hollings	Muskie	Tunney
Hughes	Nunn	Weicker
Humphrey	Packwood	Williams
Inouye	Pastore	

NOT VOTING—12

Allen	Fong	Mondale
Baker	Huddleston	Nelson
Cotton	Kennedy	Percy
Curtis	McClure	Sparkman

So Mr. Bellmon's amendment (No. 675) was rejected.

AMENDMENT NO. 679

Mr. TUNNEY. Mr. President, I call up my amendment No. 679 and send to the desk a substitute for it and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Helms). The clerk will first state the amendment as modified.

The assistant legislative clerk proceeded to read the amendment.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. RANDOLPH. Mr. President, will the Senator from California yield for a question?

Mr. TUNNEY. I yield.

The PRESIDING OFFICER. The Chair would inquire if it is the Senator's intention to consider his amendment as a modification or a substitute.

Mr. TUNNEY. As a modification.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. RANDOLPH. Mr. President, I appreciate the opportunity to ask this question of the able Senator from California: What time is he indicating should be allotted to his amendment, because there are those of us who will want to speak against it?

Mr. TUNNEY. The Senator from New York (Mr. Javits) is the prime cosponsor. I understand he feels he needs about 5 minutes. Would the Senator from New York indicate how much time he wants?

Mr. JAVITS. Not over 5 minutes.

Mr. TUNNEY. I would like to have 5 minutes. That would be 10 minutes. Perhaps another 3 or 4 minutes for anyone else that wanted to speak to it. So that would be, roughly speaking, 14 or 15 minutes.

Mr. COOK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Kentucky will state it.

Mr. COOK. Has the Chair ruled on the unanimous-consent request made by the Senator from California (Mr. Tunney) that the reading of his modification be dispensed with?

The PRESIDING OFFICER. The Chair has not.

Mr. COOK. Then I would object to dispensing with the reading of the modification and would ask that it be read in full.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

On page 22, after line 18, add the following new material and renumber the remaining subsections accordingly:

(d) For the duration of the energy emergency, and notwithstanding any other provision of Federal law, Highway Trust Fund sums authorized pursuant to section 104(a)(2) of the Federal-Aid Highway Act of 1973 shall be available for implementation of paragraph (c) of this section and for implementation of transportation control plans developed pursuant to subsection 203(b)(2) of this act to finance public mass transit projects involving the purchase of passenger equipment, including rolling stock for any mode of mass transit, the operation and maintenance of mass transit facilities, the construction of fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, the construction of preferential bus lanes on existing roadways, and the facilitation of commuter car pools.

The PRESIDING OFFICER. The Senator from California has asked for the yeas and nays. Is there a sufficient second?

The yeas and nays were ordered.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia will state it.

Mr. RANDOLPH. What is the division of time on this amendment?

The PRESIDING OFFICER. There is no time limitation.

Mr. TUNNEY. Would 15 minutes on each side be satisfactory?

Mr. RANDOLPH. I thought, in the interest of attempting to accommodate Senators who have thought in terms of another amendment or two, that 30 minutes would be agreeable, with 15 minutes to be controlled by the Senator from California proposing the amendment and, if agreeable to the manager of the bill, 15 minutes be given to me to oppose the amendment. A portion of that time would be taken by the Senator from Texas (Mr. Bentsen).

The PRESIDING OFFICER. The Chair would state that the only time limitation, as of now, is on final passage of the bill, which will occur not later than 5 p.m. today.

Mr. RANDOLPH. It is agreeable to me to debate the matter for 15 minutes. I am prepared to do that but perhaps we had better let it go. I was trying to be helpful.

Mr. FANNIN. Mr. President, we have not had any requests for that much time all day long. The usual limit has been 5 minutes to a side. I would therefore hope that we could be consistent. There are other Senators who have amendments. Would 10 minutes be sufficient, if the manager of the bill would permit that?

Mr. TUNNEY. It would be satisfactory to me.

Mr. JACKSON. Yes, Mr. President, I want to support what the distinguished Senator from Arizona had to say. We have tried to hold down the time limitation on amendments. I will not take any time. I will be glad to make time available to the Senator.

Mr. TUNNEY. Ten minutes to a side.

Mr. JACKSON. Mr. President, I ask unanimous consent that the time on this amendment be limited to a total of 20 minutes, equally divided.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the names of the Senator from Delaware (Mr. Biden) and the Senator from Massachusetts (Mr. Brooke) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I would think that this amendment would be supported by any Senator who is interested in jobs, who is interested in heating homes this winter, who is interested in having adequate fuel for electric power generating plants, and who is interested in having sufficient heating fuel for homes and industrial fuel.

The reason I say this is that this amendment would make moneys available from the highway trust fund—specifically, \$1.07 billion—for the purpose of supporting mass transit systems in this country. In addition, it would make money available for the promotion of car pooling and the building of parking lots near the terminals for mass transit.

In other words, what we are attempting to do is to get people out of private passengers automobiles into carpools and onto mass transit facilities. This amendment would provide adequate funding to do these things. There would be no need to go through the appropriation process because up to \$1.07 billion in highway trust fund moneys would be available at the discretion of the President.

The amendment also provides that the President can make highway trust fund money available to implement transportation control plans prepared under section 203(b)(2) of S. 2589.

The authorization in the amendment is for the duration of the emergency, which is 1 year.

I can say from experience that San Diego, Calif., where a local subsidy was provided for operation and maintenance of mass transit facilities, and fares were subsidized to the tune of 25 cents per passenger, no matter how long the ride, the use of that mass transit facility increased by 100 percent in a period of 2 years.

The reason why I say we are going to be able to have more fuel available to power electric generating plants and for industry if this amendment is adopted and if the moneys are utilized is simply that, at the present time, middle distillate fuels only comprise about 18 percent of the total production of refineries. There is no question that present technology can increase that 18 percent up to about 26 percent. Middle distillates are used by electric power generating plants and by industry for the purpose of firing their boilers. If we are going to be able to use our refinery capacity for middle distillates and increase middle distillate production, we will have to cut back on gasoline production, which means that we will have to cut back on the number of passenger miles traveled in passenger vehicles, which consume 24.4 percent of the total energy used by this country.

This amendment would provide adequate funding now to shift precious energy resources currently being consumed by automobiles away from the highways and toward the homes and industries which must be heated and operated through this coming winter, if we are to avoid

disastrous economic consequences. A reduction in gasoline consumption is possible only if there are viable mass transit alternatives. Mass transit alternatives—such things as keeping old buses in service, creating preferential bus lanes, reducing fares—can be developed only if urban areas have available moneys necessary to expand and operate their mass transit systems.

The Congress has agreed to make use of the highway trust fund for the purpose of financing the purchase of buses—but not rail transit—commencing in July 1975. No money will be available for operating subsidies. I submit that the current energy emergency makes that agreement sorely inadequate.

We are not talking here about stopping any highway projects; the amendment would not have any long-range effect on the trust fund's ability to meet all current and projected highway plans. We are not talking about any disruption in the national transportation system: It is the President who would have authority to make funds available to implement this and other sections of the act.

Nothing else could more directly save gasoline, maintain employment and essential services. The trust fund revenues are projected to be at least \$12 billion for the next 3 years, with obligations of only \$7 billion. Moreover, urban areas provide 50 percent of the trust fund revenues—clearly sufficient justification to entitle them to needed mass transit financing which they have sought for so many years.

The moneys which would be made available by this amendment are required by urban areas to meet the energy emergency during the next year. First, mass transit moneys and funding mechanisms now available pursuant to the Highway Act and Urban Mass Transit Act are insufficient to meet the crisis. Second, even though existing capacity to manufacture and assemble buses is almost fully utilized, some expansion can take place quickly. Third and most important, such things as retaining old buses in service, subsidizing fares and building preferential bus lanes can be accomplished immediately, and, according to reports, can increase mass transit ridership by an average of 20 percent. This means a savings of billions of gallons of gasoline.

In 1970, the automobile consumed 24.4 percent of the total energy used by this country. In terms of the distribution of energy within the transportation sector alone, the automobile consumed 55.3 percent, and buses and trains combined consumed slightly over 3 percent. At a time when we face a potential energy shortage of 40 percent in some areas of the country, this situation is intolerable.

Let me add that nothing in this amendment affects, in any way, the labor protection provisions in title 23 or in S. 2589. Those protections apply to the use of any funds pursuant to this amendment.

The amendment we offer would go a long way to implement—and not just to propose—a meaningful solution.

I yield to the senior Senator from New York.

Mr. CHILES. Mr. President, will the Senator yield for a question?

Mr. TUNNEY. I should like to yield first to the Senator from New York, and then I will accept a question.

Mr. JAVITS. Mr. President, I join the Senator from California in this amendment. It is very understandable that the great States with the massive populations should join in this amendment. It is well known that this represents an element of a struggle which has been going on

for a long time in the tremendous waste which is involved in favoring highway transportation as against urban mass transit in respect of the law. Certainly, there is the least possible reason for making this distinction when we are dealing with an emergency in which it is essential that all must sacrifice.

This amendment is not, as some would argue, a breaking open of the Highway Trust Fund for mass transit purposes. It is a limited and essential measure that would make available the funding needed to implement the fuel conservation plans already provided for in this bill. It would fund only those projects the President deems necessary to alleviate the energy emergency.

We have been debating now for 3 days the methods by which we are going to meet the energy emergency we face. It is clear from this debate, from the Interior Committee hearings and from all available evidence, that one of the surest means of conserving energy is by drastically limiting the use of the private automobile. No one doubts that some such measures must be reckoned with, and without further delay.

Within several months, it is likely that private automobile use will be significantly curtailed; hopefully we will not have to ration gasoline, but whether by emergency transportation control plans developed by the States and cities, or by rationing, drastic curtailments will be necessary.

Yet the bill as written provides no funding for alternatives to private automobile use. Certainly, funding for those alternatives may be forthcoming, but it is agreed by all that we have no time to waste.

When significant transportation control plans are implemented, millions of our citizens will be faced with severe transportation problems. Will they be able to drive to work, drive their children to school, drive to the market to shop, or drive to the doctor's office? Americans depend on the use of the private automobile to a degree not matched by any other nation in the world. When significant limitations are imposed, trauma and chaos could result.

But, it will be argued, that this bill provides for alternatives so that our citizens will not be stranded. It does, and necessarily so. The President, under **section 204(c)**, must develop incentives for mass transit, including the possibility of emergency operating subsidies.

Yet even with these movements toward alternatives, there is not one word in the bill as to how these alternatives are to be funded. A plan will do in normal times, but these are not normal times; immediate implementation of these plans is critical to avoid catastrophic disruptions in the daily life of the public.

The amendment before us would not mandate that any funds be used for mass transit purposes, nor would it even allow that any rural funds or any Interstate System funds be used for mass transit. It is limited to urban funds, most of which are already available for mass transit capital projects if the State and local officials opt to use them for those purposes.

The major thrust of the amendment is to give the President an immediate method for funding the emergency mass transit incentives he develops under **section 204(c)**. Such funds, whether used for immediate capital improvements or operating subsidies, could have a major and immediate beneficial effect upon mass transit ridership, an

effect that must not be delayed if we are to provide realistic alternatives to the private automobile.

These urban funds could only be expended for these purposes for Presidentially developed plans under **section 204(c)** or Presidentially approved plans under **section 203(b)**. Thus, only those mass transit projects or subsidies specifically approved by the President could be funded with highway trust fund moneys.

It is important to note that this amendment in no way changes the allocations or procedures of the highway trust fund. It amends only the emergency energy bill, the authority under which will only last for the duration of the emergency. No permanent change in the highway trust fund is affected.

Mr. President, these are emergency times and we must take emergency measures. **Section 204(c)**, a necessary and important section of the bill, must be given the chance to have immediate beneficial effects. Without this amendment, that section can have no immediate effect, and it could be many months before any mass transit alternatives are provided.

I ask the Senate not to let this opportunity slip by. Talking about the energy emergency will not help our citizens meet the problems they confront because of it, nor help them conserve the fuel that must be preserved. This legislation must provide for the means as well as ends; this amendment would do just that. I urge adoption of this amendment.

Probably the greatest single conservation that can be engaged in is this one. The bill recognizes that, because it says in the section sought to be amended, **section 204(c)**:

The President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems.

Here are the key words.

And Federal subsidies for reduced fares and additional expenses incurred because of increased service for the duration of the energy emergency.

The difficulty with this section is that it starts with, "The President shall develop and implement." That is not an authorization for money, notwithstanding the fact that later it says that he shall develop and implement Federal subsidies. But he is not given any money.

What the amendment proposed by the Senator from California seeks to do is to give the President some money authority in a manner which the Senate has passed before, precisely because the Senate was forehanded in understanding the dangers of the situation. In the highway bill, the conference report of which was held up for weeks and weeks based upon this very struggle between the Senate conferees and the House conferees, we finally compromised on a very small increment for urban mass transit. But that was permanent legislation, not designed to meet a given emergency and where the forces aligned toward the integrity of the highway trust fund strictly for highway purposes did not run up against the national need which is represented by this crisis in respect of energy.

The 1-year provision which has been proposed by the Senator from California, and which I strongly support, would endeavor to give the President some resources with which to implement the declared policy

of the act, which no one has amended and no one has sought to challenge. It seems to me that where you have, therefore, a pattern of emergency, a pattern of use, which is 10-to-1, according to the figures—that is, you get 200 miles per passenger out of a gallon of gasoline used in a bus and only roughly 13 miles in a similar gallon used in a private car mostly occupied by one person—it seems to me that, under the emergency, the Senate at least ought to reiterate its position respecting the highway trust fund, this time standing with it, because it is fully justified on an emergency basis; and the Senate should not yield on the ground that it wants a highway bill on a permanent basis, where we have made a compromise very much against our own interest.

The Senator from New Jersey (Mr. Williams) was the original author—and I joined him—of almost this measure, in the same words, in the Senate. It passed the Senate, but we could not make it stick because we needed a highway bill, and we yielded to the House. Now we are in a great emergency, and the House ought to yield to us, and the Senate ought to reassert its position in the way argued by the Senator from California.

Mr. TUNNEY. Mr. President, one point I should like to add to the very lucid remarks of the Senator is that in this amendment we have a provision for the funding of carpooling schemes. If we do not have support for such schemes, it could mean that in the very near future, when we have gas rationing, housewives will not be able to move from their homes to the shopping centers, because the entire fuel allotment of their family will be taken up by their husbands going to and from work.

I do not know what it is like in New York, but in California, where we have many people living in suburban areas, in tract homes, they cannot walk from their homes to the shopping centers. They will need their cars to do that. If we do not have carpool arrangements to move wage earners from their homes to their jobs and from their jobs to their homes, there will be a great hardship for many millions of people.

Mr. JAVITS. The Senator is correct. We find that 26 of the 50 States are sparsely settled and have the same problems as the State of California. The 7.5 million people living outside the metropolitan area of New York, and even in suburban counties, have the same problem.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. Randolph addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, is it the parliamentary procedure that the Chair will agree that I can yield to Members on the floor while holding the floor?

The PRESIDING OFFICER. The Chair is advised that it would require unanimous consent for the Senator to hold the floor and parcel out time. The Senator can yield only for a question.

Mr. GOLDWATER. There is nothing unusual about that.

The PRESIDING OFFICER. The Senator is correct.

Mr. GOLDWATER. So the Senator can proceed in the normal channels.

The PRESIDING OFFICER. If there is no objection, the Senator may proceed.

Mr. JAVITS. Mr. President, what is the unanimous-consent request? The Chair said, "If there is no objection."

Mr. RANDOLPH. The Senator from California has been yielding to Senators.

Mr. JAVITS. Has the Senator made a unanimous-consent request?

Mr. RANDOLPH. I will make one now.

Mr. JAVITS. Mr. President, I reserve the right to object for this reason. I know the Senator from West Virginia well, and I would not object, but I do not get the exact request, which is that he hold the floor until when?

The PRESIDING OFFICER. The Senator can hold the floor only until 5 p.m.

Mr. JAVITS. That is correct, and that means some Senators who want to speak may be shut out. I will agree if the Senator will first limit the time.

Mr. RANDOLPH. I tried to do that earlier in the day.

Mr. JAVITS. I did not understand it. May be know how much time the Senator wants? I have no desire to object, but I think we should be fair to others.

Mr. GOLDWATER. Mr. President, on this business of time, I ask if the Senator from West Virginia will yield to me. I am perfectly willing to wait until he finishes and get the floor under my own power. But I have been listening to debate here for many years, and we ask regularly if we might yield without losing our right to the floor, and I do not think I have ever heard that courtesy denied.

Mr. JAVITS. May I ask the Senator about the time question? Would he want to hold the floor until 5 p.m.?

Mr. GOLDWATER. The Senator knows me better than that.

Mr. JAVITS. Of course, I do. But that is the point.

Mr. GOLDWATER. This is an important amendment and it is a dangerous amendment. I might feel like talking if I am prompted to do so, but right now I do not feel that strong urge; but I could if the Senator from New York wants to make a point of it.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RANDOLPH. What time has now run with the Senator from California who proposes the amendment? What time has been consumed already? I am attempting to find an equitable basis. How much time has been used?

The PRESIDING OFFICER. The Senator began at 4:04 p.m. The time consumed is 19 minutes, to respond to the Senator's question.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the opposition to the amendment may have 25 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Reserving the right to object, I understand there are other cosponsors of the amendment who wish to be heard, so we are going now into a roundabout way of getting controlled time, which I have objected to. Why do we not allow this to go along on its normal basis?

The PRESIDING OFFICER. Is there objection to the request?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, after reading the amendment offered by the Senator from California (Mr. Tunney), for himself and others, I really had to remind myself that the legislation of today attempts to cope with emergency measures for the energy crisis. Otherwise I might be persuaded, and this has been indicated already by the Senator from New York (Mr. Javits), that the Federal Aid to Highways Act of 1973 was before this body. The amendment is very much like some offered to the Highway Act, which were rejected by the Senate, as the rollcalls will show.

I really cannot consider it a serious attempt to accommodate ourselves, I say with courtesy to the Senator from California, with the shortage of fuel. It is, indeed, an effort to rewrite the Highway Act, over which we labored for a year and a half in this body.

Furthermore, the provisions of this amendment would not accomplish what it purports to do. It is largely unnecessary and redundant.

There are several deficiencies in the amendment offered by the Senator from California. In the first place, most of the options that this amendment attempts to give local officials are already available within the context of the total highway program.

We labored long and hard on this issue, and there was an inability by Congress to enact the highway bill in 1972. The Senate-House conferees came back in 1973. We met on 29 occasions for approximately 125 hours. The vast majority of this time was devoted to finding reasonable and workable answers to the mass transit problem. I disagree with the Senator from New York when he indicated that the Senate gave in to the House in that conference.

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard. The Senator may proceed.

Mr. RANDOLPH. Rather than giving in to the House, I say to the Senator from New York that the House really gave in to us. That is the result of the conference.

Final resolution of this question is one which I believe equitable and reasonably focuses both the highway program and the mass transit program on the needs of contemporary urban transportation.

I hope colleagues in the Chamber will have the opportunity to read the statement I have placed on the desk of each Senator. I hope Senators will do that before voting on the amendment.

In January 1974, up to \$200 million in urban highway funds will be available for the purchase of transit buses. The provisions of the amendment before the Senate could not make funds available any more rapidly. In January 1975, the full \$800 million authorized for urban highways that year can be utilized for the acquisition of both buses and fixed rail transmit equipment in addition to a variety of other transit-related activities.

Mr. President, I repeat that the authority to use highway funds for mass transit exists and is supplemental to Federal aid provided under the urban mass transit program. This year's Highway Act also increased authorizations for the urban mass transit program by \$3 billion.

Even though I might disagree with other Members who I know will not support the Tunney amendment, I voted for mass transit, I remind the Senator from New York and the Senator from California, in the amounts of, first, \$3 billion and then another \$3 billion.

So the Senator from West Virginia, now speaking against this amendment, cannot be accused in any wise of having failed to support mass transit through the programs that have been presented.

Funds from both highway and mass transit programs are, and will, shortly be available to expand and improve transit systems. There are questions, however, that these resources can soon be expended. The fact is that the industries that build buses and rail cars and other transit equipment simply do not have the capacity to fill large new orders at once. If, as I believe we must, the United States is to exercise its new commitment to mass transit, a period of time is required to translate this commitment into hardware.

During development of the 1973 Highway Act I cautioned that use of highway funds for transit would not suddenly loosen a flood of cash in the direction of transit agencies. Since passage of the Highway Act, the executive branch has once again restricted spending under this program. The act authorizes approximately \$5.8 billion for the highway program in fiscal year 1974. The administration, however, has impounded a substantial portion of the obligational authority provided by the bill. Only \$1.4 billion is being released for obligation this year and similar restrictions doubtless will be imposed in the next two fiscal years also covered by the act. Of the funds released, \$700 million can be utilized only for noninterstate projects in urbanized areas.

The 1973 Highway Act was designed to provide maximum flexibility to respond to the wide variety of transportation needs that exist in our country. This flexibility has taken on new importance with development of the acute energy crisis that today threatens to restrict personal automobile use.

With respect to the urging of car pools to reduce energy consumption, this provision of the amendment also is unnecessary. Without being referred to specifically, car pooling activities probably already are legitimate functions of the highway program in the general category of traffic operations improvement.

In any event, the Committee on Public Works now has before it a bill introduced by Senator Domenici (S. 2598), with my cosponsorship, which deals specifically with car pooling. We anticipate offering this bill as an amendment to the Fuels and Energy Conservation Act (S. 2176) when that measure comes before the Senate.

Mr. President, I must call attention to one other proposal in the amendment which could substantially endanger the success of the total bill. I refer to the provision authorizing "the operation and maintenance of mass transit facilities." The administration remains adamantly opposed to any Federal operating assistance for mass transit. As we worked on the highway bill we were told in no uncertain terms that inclusion of operating funds would stimulate a veto of the bill even though it contained other provisions urgently desired by the administration.

I am informed that the Department of Transportation opposes this amendment. I have a letter from the Secretary of Transportation stating its opposition.

There are also substantial reasons why this is a poor time and this emergency act is a poor vehicle for trying to resolve the operating subsidies question. While the Senate this year and last year voted to amend the Urban Mass Transit Act to provide for operating sub-

sidies, there are many unanswered questions about the implementation and impact of Federal subsidy payments. I, personally, believe that operating subsidies are essential, not only to the continuing viability of transit systems, but also to any long term effort that increases ridership and thereby curtails private car usage and urban congestion.

The amendment before us, Mr. President, simply authorizes highway trust funds to be used for subsidies. There are no safeguards that they will be used to meet legitimate needs. We cannot be sure that these funds will simply be expended to compensate for the inefficient operation of local bus and rail systems.

Furthermore, there is a great difference of opinion on the needs of transit systems to cover legitimate operating deficiencies. Most studies, however, show that subsidy requirements are far too large to be affected by any funds that might be provided as a result of this amendment.

No subsidy program can be truly effective without local involvement. Mass transit is very much a local issue and until we know to what extent communities are able or willing to provide subsidies, Federal entry into this field would be premature. Finally, the question of operating subsidies is already addressed in the bill before us. Section 204(c) directs the President to develop and implement federally sponsored incentives for the use of public transportation including "Federal subsidies for reduced fares and additional expenses incurred because of increased service—." This evidence leads inevitably to the conclusion that the amendment is not intended to alleviate the fuel shortage so much as it is to raid the highway trust fund.

Mass transit and related issues are of particular concern to the Senator from New Jersey (Mr. Williams). He worked closely with us last year and earlier this year when these matters were considered in connection with the Highway Act.

Senator Williams has worked hard to initiate a demonstration program to find answers to many of the unknown quantities about transit subsidies. Only when these answers are provided and supported by factual information can a workable subsidy program have a chance of success. The amendment before the Senate does not address needs and it does not provide for any examination of its ramifications or workability.

I cannot but view this amendment as a backdoor attempt to undo that which we so laboriously affected in the Highway Act earlier this year. It is, simply, a cosmetic proposal of no substance and with virtually no impact on the energy crisis.

The Congress has made its commitment to mass transit. It has reaffirmed with substantial monetary backing that the highway and mass transit programs are closely related. What we must do today is concentrate our attention on workable solutions to the energy crisis. We can best do this by rejecting amendments like that before us.

I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I rise to oppose the Tunney amendment.

The Tunney amendment represents an attempt to reopen an issue that this body debated at considerable length last March and again in August.

The Federal Aid Highway Act of 1973 was one of the most thoroughly debated measures in the 93d Congress. After the Senate

passed its bill, which contained a provision allowing urban system trust funds to be used for mass transit, the House followed with a bill that prohibited any use of the trust fund for the same purposes.

That left us at an impasse, an impasse that took 21½ months and thousands of man-hours of discussion in one of the lengthiest conferences the Congress has seen. When it was over, the conferees emerged with a bill that preserved the essence of the Senate position and won the praise of many Senators and commentators who believed that such a result was unlikely, if not impossible.

The conference report was supported by the Senator from California and passed by a lopsided margin of 91 to 5.

To briefly review, the major elements of the compromise on mass transit: we provided no funds for this fiscal year from the trust fund for rails and buses, \$200 million from the trust fund in fiscal 1975 for buses, and the full amount of urban system trust funds, at local option, for any form of mass transit in fiscal 1976, some \$800 million.

The National Journal termed the final bill "one of the best examples of the role of conference committees in forging compromise legislation."

Mr. President, in 45 days, trust fund moneys will begin to be available to the cities for the purchase of buses. That is during the course of this national emergency. But the Highway Act of 1973 does more for mass transit than simply invade the urban system trust funds for rails or buses.

It provides some \$3 billion in capital expenditures over the next 3 years for all forms of mass transit under the Urban Mass Transportation Act.

It provides an increase of over 800 percent in urban system funds, which have a new flexibility in use.

It provides that funds from the highway trust fund can be used in urban areas for the construction of exclusive bus lanes, exclusive or preferential truck and emergency vehicle routes or lanes, traffic control devices, and facilities. Many of these same provisions are also in the Tunney amendment, but they are already in the law as written.

I mention these facts, Mr. President, because I want to emphasize that the legislation that we passed was a transportation bill that appealed to all segments of our population. The Institute for Rapid Transit, in the latest addition of its Executive Digest, says, that—

The act gives the state and local governments the option of doing just about anything to improve their transportation situation . . .

President Nixon, who fought hard for a total transportation bill, said that the Federal Aid Highway Act of 1973 was—

The only significant legislative breakthrough of the 93d Congress.

All of these sources, who had taken hard positions on mass transit, approved the final bill.

Now, what about the Tunney amendment? Does it accomplish anything or simply provoke a confrontation with the House after several months of hard and sensitive bargaining? I submit that it is clearly counterproductive.

It may be argued that our situation is different today than it was some 3 months ago when we passed this conference report with the support of the Senator from California. I profoundly disagree. The

conferees were fully aware of the impending energy crisis when we held our discussions, even if the administration was tardy in announcing an energy policy. In fact, I have been warning about our over-reliance on foreign oil since I came to the Senate in 1971. Senator Randolph has been talking about it since the fifties. The Middle East war only dramatized a problem that was very much with us in August of this year.

Will the Senator's amendment accomplish his goals? I suggest that it will not. We will begin using trust fund moneys for the purchase of buses within 2 months.

We have provided ways for interstate funds for controversial interstate segments to be exchanged for funds to build any form of mass transit as early as this fiscal year. The cities do not have to wait until 1976.

The Senator's amendment provides subsidies for the operation and maintenance of mass transit facilities. We passed such a bill a short time ago, and it was vetoed. In addition to that, our subsidy bill had safeguards to assure that funds would not be spent to reward inefficiencies in publicly operated transit systems. There are no such safeguards in the Tunney amendment.

The fringe and corridor parking, the construction of exclusive bus lanes, are already in the Federal Aid Highway Act of 1973. There is no need to repeat language on that subject in this amendment, for it has already been done.

So, Mr. President, I would point out that the Public Works Committee has not evaded these issues in the highway bill; we have dealt with them.

And the Tunney amendment does not result in any substantial gain for mass transit. Buses can be purchased in 2 months under the highway act, and they are already being purchased under the Urban Mass Transportation act. Any form of mass transit can now be supported under the highway act, since a city has an option to trade its trust fund moneys in for general fund money to purchase any kind of mass transit equipment it desires. The mechanisms are already in place: if the administration wishes to support mass transit, it can do so under present law.

Let me reiterate—the highway act is a transportation act, hammered out over many months in very difficult and sensitive negotiations. The essence of the Senate view was preserved. Our energy needs were fully taken into account.

Now to undo all of that work for no practical reason seems imminently unwise. A vote against the Tunney amendment is not a vote against mass transit. It is a vote to implement a forward-looking highway act, which already gives us the tools we need.

I urge the rejection of the Tunney amendment.

I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I just want to say that the Senator from Texas states the issue very well. I have taken the position that we should not, in this emergency bill, which runs for only a year, attempt to pass permanent legislation. We have made provision here for a subsidy, an operating subsidy, in connection with local mass transit, in order to encourage lower fares, to bring about the kind of services and savings of fuel that we all seek. I think the Senate should

realize this. The last thing I want to face—and I have great respect for the Senator from California, and I voted, as the Senator knows, for the use of highway funds for mass transit—when we go to conference week after next is a situation in which we will be locked in for an indefinite period, over the single issue of mass transit at the expense of clearing the bill. That is the problem we face.

Mr. BENTSEN. Let me say to the Senator from Washington and the Senator from California that that is exactly what we will be facing in the House. It took 21½ months to bring out what, I think, is a very comprehensive bill.

Mr. JACKSON. If the Senator will yield again, I opposed amending the provisions of the law relating to the Outer Continental Shelf for the same reason. This is permanent legislation. Amendment after amendment which would allow a change in the permanent law has been offered. We opposed them because we are dealing here with an immediate emergency. We are staying in session to get the bill through. I hope we will be able to have it in the hands of the President next week. It is an emergency and requires expeditious measures.

Let me say to the Senator I shall be glad to support, at another time, a bill dealing with specific help in this area.

Mr. BENTSEN. I think I still have the floor.

I would say along the lines of what the Senator from Washington has stated that I joined with him in the idea of not trying to establish permanent legislation in this emergency bill. The Senator knows how strongly I feel about regulations on the deregulation of gas. However, I joined in the unanimous consent request that the matter not be considered in this bill.

Mr. JACKSON. The Senator is correct. I did have an understanding with the Public Works Committee that on the issue of air quality standards, the matter would be handled by the Public Works Committee, and on the consideration of subsidies in mass transit that the matter would be handled by the Public Works Committee.

I carried out that understanding. And, of course, I will keep the agreement that I made with the chairman of the committee, the distinguished Senator from West Virginia.

Mr. TUNNEY. Mr. President, the Senator from Washington and the Senator from Texas are talking in terms of an amendment to permanent legislation. The amendment which the Senator from New York (Mr. Javits) and I have introduced is not an amendment to any permanent legislation. This is an amendment to the emergency energy bill (S. 2589) for the duration of the energy emergency of 1 year. There is no change in the Federal Aid Highway Act whatever by virtue of this amendment.

Another point that I would like to clarify concerns the statement of the Senator from Texas regarding moneys being available in the very near future for mass transit. No Federal money is presently available for carpooling. No Federal money is presently available for the operation and maintenance of mass transportation.

This is a critically important matter. It will be of critical importance in the future. We are talking in terms of having 10-percent or 15-percent unemployment in the future. It will not do anyone any good to have highways and an automobile if he does not have a job.

We must provide funds for car pooling money and for the operation and maintenance of mass transit. Only in these ways can we conserve scarce gasoline resources and allow more production of middle distillates by our refineries and more oil for the public utilities so that there will be more jobs.

Mr. RANDOLPH. Mr. President, I ask the Senator from Texas if it is not true under an amendment to the Federal Aid Highway Act of 1973 that carpooling is provided for.

Mr. BENTSEN. The Senator is correct. Under the TOPICS program, carpooling could be supported. The Senator asked a question and answered before I had an opportunity to do so.

I yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I know that my distinguished colleague from Arizona is seeking the floor. And I believe that he has a proper use for it.

I merely want to state my opposition to the amendment. I think it is another attempt to get highway funds which some people think are inexhaustible. I would remind the Senate that we have been at this the better part of the week. We have had, I think, 13 votes today. And I have been sitting here waiting for someone to suggest how we might solve the problem of limited fuel and oil. More trucks and buses are being built. Somehow we have to find some more oil and domestic oil within the domestic limits of this country.

I hope that before we get through with the bill it is clearly spelled out that once again American industry is free to go about this without the constant harassment they have had over the past 30 or 40 years. That is the problem. It is not a lot of the extraneous things that have been mentioned. I even hear that someone wants to change to daylight savings time. That is something that we do not want. My farmers in Arizona and the farmers all over America are suffering because they cannot get enough gasoline to harvest their crops. Because of the heavy rains they asked our farmers to plant more cotton. They had to have 20 percent more cotton, and they have 80 percent of the gas they formerly had to harvest that cotton.

We are not demanding the rationing of aviation fuel. If it were not for the fact that American airlines are now on strike, I am sure that we would now be asking for the rationing of aviation fuel.

What we are doing with this amendment is saying that we need more buses. I do not know how they can put more buses on the streets of Washington, D.C. I do not know of anything that fouls up the air more than the buses do. I do not know of anything that throws into the air more black smoke than the trucks on the highways.

In closing, I suggest that we ought to be encouraging the scientists to find something to replace gasoline and other fuel.

I hope that in the future my grandchildren will not have to stop every so often for gasoline. I hope that they can put something in their cars, boats, planes, or any other transportation vehicle that might take them to their destination.

I oppose the amendment. I think it is a bad place in which to bring it up.

I hope that the amendment will be roundly defeated.

Mr. FANNIN. Mr. President, we have spent almost 45 minutes on the amendment. Other Senators have amendments to offer, which they should have an opportunity to explain.

I move to table the Tunney amendment No. 679, as modified.

Mr. MAGNUSON. Mr. President, will the Senator from Arizona yield 10 seconds of his time?

The PRESIDING OFFICER. The Chair would ask the Senator from Arizona to yield back the remainder of his time before making his motion.

Mr. FANNIN. I can withdraw the motion.

The PRESIDING OFFICER. Otherwise, the motion may not be offered.

Mr. FANNIN. Mr. President, I ask unanimous consent that I may withhold my motion for 10 seconds.

Mr. MAGNUSON. Mr. President, 10 seconds would allow the Senator from Nevada to send an amendment to the desk. That is all that is desired.

Mr. FANNIN. I would be pleased to yield for that purpose.

Mr. CANNON. Mr. President, I send that amendment to the desk.

The PRESIDING OFFICER. That requires unanimous consent.

Mr. TUNNEY. Mr. President, reserving the right to object—

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Mr. President, is this an amendment to the amendment?

Mr. MAGNUSON. It is not. It is merely an amendment to the bill. The Senator from Nevada merely wants a chance to lay it on the desk.

The PRESIDING OFFICER. Is the Senator calling it up?

Mr. CANNON. I am not calling it up.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CANNON. Mr. President, I ask unanimous consent that I be permitted to call up the amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. TUNNEY. Mr. President, reserving the right to object, does this amendment affect the amendment pending before the Senate?

Mr. CANNON. It does not affect the pending amendment.

Mr. FANNIN. Mr. President, the Senator from Nevada sent an amendment to the desk which I understand will be considered before the final vote.

Mr. TUNNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUCKLEY. Mr. President, I wish to express my opposition to the amendment proposed by the distinguished Senator from California (Mr. Tunney). While I have supported efforts to allow greater use of highway trust funds for use on urban mass-transit systems, I believe that this amendment is both unwise and largely unnecessary at this time.

Earlier this year, the Congress adopted major changes in the scope of the highway trust fund. Under language that is now a part of section

142 of title 23 of the Code, moneys authorized for the Federal-aid urban systems will be available for urban mass transit purposes.

Under the terms of Public Law 93-87—the Federal-Aid Highway Act of 1973—States may utilize up to \$200,000,000 of these urban funds for the purchase of buses during fiscal year 1975. As a practical matter, I believe that this is all that can be reasonably accomplished within this tight time period. Then in fiscal year 1976, the act allows the full \$800,000,000 authorized for the Federal-aid urban system to be available for mass transit purposes, including new subway systems and rolling stock for subways.

I should point out that the fiscal year 1975 funds will be apportioned next month, so that the cities may begin within weeks to contract for the acquisition of buses to improve their mass transit systems.

In addition, the law created a mechanism for switching moneys now dedicated to various urban segments on the Interstate Highway system to local mass transit construction, if the affected city and State can agree and if the change is approved by the Department of Transportation.

These two options, in conjunction with funds available under the Urban Mass Transportation Act, will provide local agencies with the flexibility they must have to effectively meet the mass transit needs of our cities.

In addition, Mr. President, most of the items specified in the amendment—such as fringe parking lots, preferential bus lanes—are now permitted under existing law.

I should note that the most significant effect of this amendment is that it authorizes the use of urban system funds for mass transit operating and fare subsidies. As my colleagues know, the Senate and the House have passed bills authorizing operating subsidies. This bill is now in conference. That is where this issue should be resolved, and not in emergency legislation hastily papered together. Money authorized for improvements to urban mass transit should not be diverted to operating subsidies by floor amendment while the issue is now being more appropriately handled in conference.

Mr. President, I commend the distinguished chairman of the Committee on Public Works (Mr. Randolph) for his position on this amendment. I shall, therefore, oppose this bill.

Mr. FANNIN. Mr. President, I move to table the Tunney amendment No. 679, as modified.

Mr. JACKSON. Mr. President, may I restate a unanimous-consent request?

The PRESIDING OFFICER. The Chair would rule that debate is not in order. A motion to table is not debatable.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second (putting the question)? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Tunney amendment, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Alabama (Mr. Sparkman), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Massachusetts (Mr. Kennedy) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 60, nays 27, as follows:

[No. 506 Leg.]

YEAS—60

Aiken	Fannin	McClellan
Bartlett	Fulbright	McGee
Bayh	Goldwater	McGovern
Bellmon	Gravel	McIntyre
Bennett	Griffin	Montoya
Bentsen	Gurney	Nunn
Bible	Hansen	Pearson
Buckley	Hartke	Randolph
Burdick	Haskell	Roth
Byrd, Harry F., Jr.	Hatfield	Saxbe
Byrd, Robert C.	Helms	Scott, Hugh
Cannon	Hollings	Scott, William L.
Chiles	Hruska	Stafford
Church	Hughes	Stennis
Cook	Humphrey	Stevens
Dole	Jackson	Symington
Domenici	Johnston	Talmadge
Dominick	Long	Thurmond
Eastland	Magnuson	Tower
Ervin	Mansfield	Young

NAYS—27

Abourezk	Hathaway	Pell
Beall	Inouye	Proxmire
Biden	Javits	Ribicoff
Brooke	Mathias	Schweiker
Case	Metcalf	Stevenson
Clark	Moss	Taft
Cranston	Muskie	Tunney
Eagleton	Packwood	Weicker
Hart	Pastore	Williams

NOT VOTING—13

Allen
Baker
Brock
Cotton
Curtis

Fong
Huddleston
Kennedy
McClure
Mondale

Nelson
Percy
Sparkman

So the motion to lay on the table was agreed to.

Mr. HANSEN. Mr. President, I call up my unprinted amendment and ask for its immediate consideration. Mr. President——

The PRESIDING OFFICER (Mr. Nunn). The Chair is advised that no further debate is in order but the amendment can be called up and stated.

Mr. HANSEN. Mr. President, I ask unanimous consent——

Mr. JACKSON. Mr. President, I am prepared to accept the amendment.

Mr. LONG. Mr. President, I ask that the amendment be read.

The PRESIDING OFFICER. The amendment will be stated.

Mr. JAVITS. Mr. President, may we have order in the Senate? We will not be able to hear anything unless we can hear what is being read.

The PRESIDING OFFICER. The Senate will please be in order. Will Senators please take their seats?

The legislative clerk read as follows:

S. 2589

To add a new section to Title 5:

"Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction and proceeding of, minerals, and for required transportation related thereto."

Mr. JACKSON. Voice vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HUMPHREY. Mr. President, I suggest that the clerk need not read it. I have discussed this with the distinguished chairman.

Mr. LONG. Mr. President, I object.

Mr. HUMPHREY. I want to state what it is, if I may, very briefly.

The PRESIDING OFFICER. The Chair is advised that it will take unanimous consent for that, otherwise the clerk must report the amendment.

Mr. JACKSON. Mr. President, a voice vote on this.

Several Senators. Read it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In title V add a new subsection as follows:

"The Secretary of Transportation shall encourage the creation and expansion of the use of car pools as a viable component of our nationwide transportation system. It is the intent of this subsection to maximize the level of car-pool participation in America.

The Secretary of the U.S. Department of Transportation is directed to establish within the Department of Transportation an "Office of Car Pool Promotion" whose purpose and responsibilities will include—

responding to any and all requests for information and technical assistance on car pooling and car pooling systems from units of State and local governments and private groups and employees.

promoting greater participation in car pooling through public information and the preparation of such materials for use by State and local governments.

encouraging and promoting private organizations to organize and operate car-pool systems for employees.

promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of car-pool systems.

other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll reductions and other incentives as may be found beneficial to the furtherance of car-pool ridership.

The Secretary of Transportation is directed to allocate the funds appropriated pursuant to this Subsection according to the following distribution between the Federal and State or local units of government:

(a) The initial planning process—up to 100% Federal.

(b) The systems design process—up to 100% Federal.

(c) The initial start-up and operation of a given system—60% Federal and 40% State or local with the Federal portion not to exceed one year.

Within twelve months of enactment of this legislation the Secretary shall make a report to Congress of all its activities and expenditures pursuant to this Subsection. This shall include any recommendations as to future legislation concerning car-pooling.

The sum of \$25 million is authorized to be appropriated for the conduct of programs designed to achieve the goals of this subsection, such authorization to remain available for two years.

Mr. HUMPHREY. Mr. President—

Mr. JACKSON. Mr. President, a voice vote on this.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

Those who favor the amendment will say "aye." Opposed, "no."

Several Senators called for a division.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Minnesota.

As many as favor the amendment will say "aye." Opposed, "no."

Several Senators called for a division.

The PRESIDING OFFICER. A division is called for. On a division, the amendment was agreed to. **[Title V.]**

Several Senators addressed the Chair.

Mr. WILLIAM L. SCOTT. Mr. President, I ask for the yeas and nays on this matter.

Several Senators. It is too late—too late.

The PRESIDING OFFICER. (Mr. Tunney). The vote has already been announced.

Mr. STEVENSON. Mr. President, I call up my modified amendment No. 695 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.
The legislative clerk read as follows:

On page 26, after line 12, insert the following new paragraph:

(f) Order production from all Federal oil and gas leases that, on November 1, 1973, were classified as "producing, shut-in" by the United States Geological Survey. Failure by the lessee to produce oil or gas within one year of the date of such order shall result in forfeiture of such acreage classified "producing, shut-in": *Provided*, That such forfeiture shall not occur if the Secretary of the Interior, on the basis of his independent evaluation of the acreage's reserves, determines that production from such acreage is not technically, geologically, and economically feasible or would violate any applicable environmental requirement imposed by law or regulation: *Provided further*, That this subsection (f) shall not apply to the extent it results in a violation of the fifth amendment to the United States Constitution.

Several Senators addressed the Chair.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arizona will state it.

Mr. GOLDWATER. Do I understand correctly that debate is not in order now?

The PRESIDING OFFICER. That is correct.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. DOMINICK. Mr. President, we have voted on this once before. Why should we vote on it again?

Mr. HANSEN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. All those in favor will signify by saying "aye." All those opposed will signify by saying "no."

The ayes appear to have it.

Mr. JACKSON. I ask for a division, Mr. President.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Hudleston), is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 48, nays 38, as follows:

[No. 507 Leg.]

YEAS—48

Aiken	Fannin	Montoya
Bartlett	Fulbright	Nunn
Beall	Goldwater	Packwood
Bellmon	Gravel	Pearson
Bennett	Griffin	Roth
Bentsen	Gurney	Saxbe
Bible	Hansen	Scott, Hugh
Buckley	Hartke	Scott, William L.
Byrd, Harry F., Jr.	Haskell	Stafford
Cannon	Hatfield	Stevens
Cook	Helms	Talmadge
Dole	Hollings	Thurmond
Domenici	Hruska	Tower
Dominick	Long	Tunney
Eastland	Mathias	Weicker
Ervin	McClellan	Young

NAYS—38

Abourezk	Hathaway	Moss
Bayh	Hughes	Muskie
Biden	Humphrey	Pastore
Brooke	Inouye	Pell
Burdick	Jackson	Proxmire
Byrd, Robert C.	Javits	Randolph
Case	Johnston	Ribicoff
Chiles	Magnuson	Schweiker
Church	Mansfield	Stevenson
Clark	McGee	Symington
Cranston	McGovern	Taft
Eagleton	McIntyre	Williams
Hart	Metcalfe	

NOT VOTING—14

Allen	Fong	Nelson
Baker	Huddleston	Percy
Brock	Kennedy	Sparkman
Cotton	McClure	Stennis
Curtis	Mondale	

So Mr. Hansen's motion to table was agreed to.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. Moss. Mr. President, I call up my amendment which is at the desk, entitled "Dealers Day in Court." The amendment is on the desk of each Senator, as well as a summary.

Mr. President, I ask unanimous consent that the amendment not be read.

The PRESIDING OFFICER. Is there objection?

SEVERAL SENATORS. I object.

The PRESIDING OFFICER. Objection is heard. The amendment will be read.

The legislative clerk read as follows:

SEC. 209. (a) As used in this section—

(1) "Distributor" means an oil company engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) "Franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) "Notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) "Petroleum product" means any liquid refined from oil and useable as a fuel.

(5) "Refiner" means an oil company engaged in the refining or importing of petroleum products.

(6) "Retailer" means an oil company engaged in the sale of any petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b) (1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnished prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

Mr. ROBERT C. BYRD. Mr. President, Senators asked that the clerk read the amendment. There should be order in the Chamber so Senators may hear it read.

The PRESIDING OFFICER. The Senate will be in order. The well will be cleared.

The clerk may proceed.

The legislative clerk resumed and concluded the reading of the amendment as follows:

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

(c) (1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such a refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraph (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise.

A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds

to exist, including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and punitive damages where indicated, in suits under this section and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. The court may also grant an award for actual damages resulting from the cancellation, failure to renew, or termination of a franchise.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. Moss. Mr. President, I ask unanimous consent to submit for the record a written statement on the amendment which has been passed overwhelmingly by the Senate before.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. MOSS

The pending amendment is to provide to the people who distribute and sell refined petroleum products insurance that their leases will not be arbitrarily cancelled, terminated, or otherwise renewed.

When we consider S. 1570, the Emergency Fuel Allocation Bill, I was joined as a cosponsor in this amendment by Senators Magnuson, Pastore, Cannon, Stevenson, Kennedy, Ribicoff, and Saxbe. Unfortunately, reasons which I cannot fathom, the Senate conferees receded from this provision without discussion, even though it had passed the Senate by an overwhelming vote on June 1. The language of the amendment is identical to the portion of S. 1570 providing for "Dealer Day in Court," and this language was accepted by the distinguished leader of the present bill when he said:

"It does get at a very serious problem, and it strengthens the bill, the basic problem being discrimination in the area of supply and price. It helps to protect the branded dealer as well as the independent dealer. I believe that it makes a lot of sense, and I think it should help to bring us through a very difficult period. . . ."

The amendment provides protection for branded dealers from arbitrary termination, cancellation, or failure to renew their leases or franchise agreements. Similar protection was provided to automobile dealers more than sixteen years ago with the passage by the Congress of Automobile Dealers' Day in Court legislation. The amendment provides that petroleum distributors and petroleum refiners may not arbitrarily cancel, fail to renew, or terminate a franchise unless several franchises failed to comply substantially with the essential and reasonable requirements of the franchise; second, that the franchise failed to act in good faith in carrying out the terms of the franchise; and third, that the franchisor no longer is engaged in the sale of the products in question for resale.

The amendment is not designed, however, to insulate franchises in perpetuity. There are set forth appropriate defenses which will permit the franchisor to terminate the agreement when there is just cause.

Mr. President, the protection which this amendment provides is necessary. The hearing record of the Senate Anti-Trust and Monopoly Subcommittee and the Commerce Committee is replete with examples of arbitrary cut-offs, unilateral price increases, and termination of franchises. These problems, at a time of shortage, further compound the problems of the user and make a difficult situation even worse.

Testimony was received concerning the plight of the branded independent marketer. Eight jobbers in the Chicago area told of how they had been cut off from their supplies. This represented 58,600,000 gallons of gasoline in their marketing area, or 600,000 gallons of diesel, and 9,700,000 gallons of fuel oil. These jobbers represented more than 100 years of service in the area, 77 service stations, 275 commercial accounts, 611 farm accounts, and 3,500 residential accounts. Every one of these would be out of business and along with them, 286 families directly

working for or supplied by these jobbers would be unemployed. Not only would the toll of hardship upon the affected jobbers be substantial, but the disruption of service patterns which had been established over a long period of years would be thrown totally awry, in a period in which stability and a history of service are particularly necessary in order that each consumer has a continuing source of supply, even if the quantity must be reduced.

The toll in hardship and unemployment which would result were the amendment not to be adopted is of great magnitude. A review of the litigation which has been brought under the "Automobile Dealers' Day in Court" legislation which the Congress passed 16 years ago would be helpful to understand why the amendment which I put forth would not be burdensome upon the courts. The National Automobile Dealers' Association reports that, on the average, 25 cases are reported each year. Considering that there are more than 30,000 auto dealers to whom this legislation applies, it appears that action has been taken only one-tenth of one percent of the eligible cases. This kind of record over a long period of time demonstrates that the remedies proposed in the amendment will not present any burden on the court.

Mr. President, a vote for this amendment is a vote for a continued source of supply for the small businessman, and it is a vote against discrimination in the marketplace.

Mr. President, I was informed last week that the Mobil Oil Corporation has terminated the lease of every single branded independent gasoline retailer in the state of Connecticut that it supplies. Additionally, Mobil has told other leasees whose leases are becoming due that they will not renew any leases, and that Mobil will resort to the dealer/manager system rather than the dealer/owner system. Hundreds of branded independent retailers, who have spent years in developing their facilities, are being cast out, without any remuneration for years of service, improvements in the facility, or their goodwill. If this trend continues, and there is no reason to believe that it will not, we may face the day soon when 225,000 independent branded retailers of gasoline and home heating oil are unemployed, and have lost their equity.

When we think of pyramid sales frauds and some of the unfortunate deals in which we know our constituents have found themselves, we see consistently an attempt by the small-time entrepreneur to make a quick buck. The branded independent retailer is not opting to make a quick buck. He is attempting to provide an important service, and the benevolence of his oil company supplier must certainly be questioned if this wholesale termination of leases takes place. It is critical that we act today on this emergency legislation to stop these arbitrary termination practices.

Mr. JACKSON. Mr. President, I am prepared to accept the amendment. Just a voice vote is sufficient.

The PRESIDING OFFICE. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. BUCKLEY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated. [Sec. 209.]

The legislative clerk read as follows:

The Senator from New York proposes an amendment on page 34, between lines 2 and 3, insert a new section 314.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Does this amend the Jones Act that we previously voted on?

Mr. BUCKLEY. In a different manner. It provides for a case-by-case consideration. It does not provide for any blanket waiver.

Mr. JAVITS. Mr. President, what is the text of the amendment?

The PRESIDING OFFICER. The amendment will be read by text.

The legislative clerk read as follows :

On page 34, between lines 2 and 3, insert the following :

SUSPENSION OF CERTAIN COASTWISE SHIPPING RESTRICTIONS

SEC. 314. Notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), or any other provisions of law to the contrary, the President may authorize on a case-by-case basis the transportation in vessels of foreign registry between particular points in the United States (including Puerto Rico and the possessions) of any product or material necessary for the production of heat or energy, upon determining (1) that there is a critical shortage of such product or material, dangerous to the public health and welfare, in the area of the point of delivery of such product or material, and (2) that United States vessels are not available to provide the necessary transportation of such product or material, between such points.

On page 34, line 3, in lieu of "SEC. 314." insert "SEC. 315".

On page 34, line 6, in lieu of "SEC. 315." insert "SEC. 316".

Mr. JACKSON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Mr. President, the Senate, by an overwhelming roll-call vote, rejected an amendment which would waive the provisions of the Jones Act of 1920, referred to. The act provides that only American-flag vessels can operate in coastal and intercoastal waters. This amendment does the same thing in a different way. It occurs to me that we already have voted on it.

Mr. BUCKLEY. Mr. President, the Northeastern States are likely to experience a serious shortage of home heating oil this winter, with shortfalls reaching 40 percent or better in parts of New York and New England. The severity of the shortage will depend in no small part on our ability to transport oil from the Gulf States to the Northeast. It is my understanding, however, that there is an insufficient supply of American-flag shipping potentially available for this purpose. This situation is rendered doubly problematic by the provisions of the Jones Act which require that all shipping between American ports be conducted in U.S.-flag vessels.

The purpose of my amendment is to authorize the President to waive the Jones Act on a case-by-case basis, after a finding first, that there exists a critical shortage of energy products, dangerous to the health and welfare of a particular region; and second, that there are no American flag vessels in the coastwise trade available to transport these products from one American port to another. This amendment will not affect American jobs, but it may heat American houses.

Mr. JACKSON. I was just trying to make the point of order. This is Monday.

The PRESIDING OFFICER. The Chair has not had a chance to compare it with the other amendment.

Mr. JACKSON. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment [putting the question].

The motion to lay on the table is agreed to.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read the amendment, as follows :

At the end of title 5 add a new section as follows :

"Sec. 302. The President shall report to the Congress every 60 days, beginning December 1, 1973, on the administration of this Act and the Emergency Petro-

leum Allocation Act of 1973, and each report shall include specific information, nationally and by region and state, concerning staffing and other administrative arrangements taken to carry out programs under these Acts, together with specific budget estimates for such programs."

Mr. CLARK. Mr. President, I want to commend the distinguished Senator from Washington for his foresight in initiating this legislation 4 weeks ago, and I want to commend him and his colleagues on the Interior Committee, and members of the administration, for their diligence in welding this legislation into final form over the past 6 days, so that this Nation can deal with the current emergency as effectively and as soon as possible.

The bill is a testament to what is possible when a sincere, cooperative, bipartisan effort is put forth.

I feel that I must call attention, however, to what I consider a shortcoming in this legislation—the absence of a sufficiently specific mandate to the administration to report to the Congress its intentions for implementing the legislation's emergency programs.

This is not a major flaw, but it could have serious shortcomings—as I will discuss in a moment—and, since it can be easily corrected, I wish at this time to offer an amendment designed to accomplish that end.

It is not my intention to slow passage of the bill, or to burden it with unnecessary baggage. I simply wish to make sure that we are fully exercising our responsibility to the American public and that the potential of this bill is realized to its fullest.

As currently written, in referring to the administration's requirements for reporting its intentions back to the Congress, the bill merely states that "within 2 weeks after the date of enactment of this act, the President shall submit to Congress his proposals for the emergency contingency programs provided for in title II of this act, and proposals for implementing such programs."

The amendment I am proposing would add a new **section 302** of the bill—to require that the President include in his report to Congress specific information on the budget, numbers of staff and distribution of staff required to implement both the National Energy Emergency Act and the Emergency Petroleum Allocation Act.

I feel this greater specificity of language is necessary for two reasons.

First, because of the broad, sweeping nature of the powers being given to the President in this bill, it seems essential that Congress do everything it can to assure that it will be able to exercise its responsibilities for oversight of the implementation of the bill to the fullest possible extent.

A specific mandate for specific proposals and specific plans will go much further toward providing such an assurance than the present language of the bill.

We must frankly recognize that this kind of extension of power to the President carries some disturbing possibilities and that we have an obligation to build adequate safeguards into this or any other legislation affecting the scope and power of any branch of government.

And, if nothing else, we should recognize that by requiring greater specificity from the administration as to its plans and proposals we are merely offering an opportunity for a greater degree of input on these plans and proposals—for a greater scrutiny that can only help

guarantee the highest possible quality for the product we are trying to produce.

That is my second reason for asking that we require the administration to give us a more detailed accounting of what it plans to do and how it plans to do it—if this administration's track record in implementing its mandatory allocation plans for propane gas and heating oil is any indication, its plan and proposals for implementing the emergency programs of this bill are going to need a lot of input and a lot of scrutiny.

Simply put, from everything I can determine, the administration's propane and heating oil mandatory allocation plans have so far been pathetic and ineffective flops.

The office of oil and gas, which has been charged with making the plans work, is—by its own admission—woefully understaffed, with only about one-fourth of the personnel it needs for the project, both in Washington, and in its regional offices.

Requests for assistance are apparently backlogged to the ceilings, little or no cooperation is apparently being received from the oil companies, and no muscle is being applied to make them cooperate.

One regional officer, who is attempting to serve four States with a total of three staff members and four phones, has told my office, for example, that "I do not even know where to turn anymore."

Things are apparently so bad that the Washington office is even having trouble getting through to its own regional offices by phone because the lines are so jammed up.

It is being stated that all of this is the fault of Congress—that Congress has failed so far to act on the supplemental appropriations bill which will provide additional funds for additional staff and equipment.

It is true that this appropriations bill is still in the House, and that perhaps Congress has been remiss in not pulling the appropriation for the Department of Oil and Gas out of the bill and speeding it through separately. I urge that this be done as soon as possible, so that we can get this thing working the way it should.

But it is not true that this situation is the fault of Congress—rather it is the direct result of the administration's own failure to request adequate funding at the proper time.

Congress, in fact, has been urging the administration to ask for more funds for the Office of Oil and Gas since last April, and the administration has fumbled or thrown the ball away at every step.

In April, the House Appropriations Committee told the administration that the \$1 million appropriation it was seeking for the Office of Oil and Gas was not enough—the administration said it was.

Then, during markup of the Interior Department appropriations in June, the administration appeared with a request for \$14.6 million, but it could give no clear indication of exactly what it would be used for. The committee agreed that appropriations should be increased, but said it was too late to include the increase in the bill, and the administration would have to ask for a supplemental appropriation.

This supplemental appropriation request was not submitted to Congress until October 18—16 days after the administration announced that it was beginning to implement a mandatory allocation plan for home heating oil in the next several weeks. And when this request was finally made, it was only for \$10 million.

Currently, although administration officials have acknowledged that the Office of Oil and Gas needs \$20 million, as a result of the worsening shortages caused by the cutoff of Arab oil, they have not increased the amount of their request.

Now, I do not see how any of this is Congress' fault. The administration can be excused for not asking for the sum it needs now back in January when the need was less clear, but it cannot be excused for failing to request the sums in a responsible way until more than 2 weeks after the plans were announced.

Perhaps this kind of bumbling is unique to this particular situation, but I am not sure it is. And I, for one, do not think we can afford to have it continue with the allocation program or happen again with this bill, during this winter, and in the midst of this kind of crisis of supply.

I do not think it is too much to ask that we take what steps we can to see that it does not continue, and I therefore urge your support of my amendment.

Mr. EAGLETON. Mr. President, I want to commend the junior Senator from Iowa (Mr. Clark) for offering this important amendment and I am pleased to be a cosponsor.

No fuel rationing or conservation program established by this or any other bill will mean a thing unless it is adequately administered. Based on experience with fuel programs up to now, I don't think we have much cause for optimism.

At the present time, the Office of Oil and Gas is attempting to administer a mandatory propane and heating oil system and a voluntary gasoline allocation program with about 250 people, most of them detailed from other Federal agencies with no background in the work they are being asked to perform. Until very recently, the Kansas City, Mo., field office which handles all complaints and appeals from four Midwest States was staffed by only three people. I understand that may have been increased to six people in the last week.

Even so, it is virtually impossible to get anyone in that office on the telephone, let alone to get action on a problem. Even the forms required to file an official complaint are unavailable.

I have one constituent who operates a fuel distribution company in a rural area of Missouri, serving mostly farm families. He has been refused any heating oil by his former supplier even though the mandatory heating oil regulations say he is entitled to it. On November 1, he filed an official complaint with the Kansas City office and he has yet to receive an answer. In the meantime, temperatures are regularly below freezing and his customers are running out of heating oil.

Nor does it do much good for a Senator or Congressman to try to bring such emergency situations to the attention of the Washington office. Last May 29, I brought an urgent problem involving a shortage of gasoline for farmers to the attention of Mr. Robert E. Plett, Administrator of the Office of Oil and Gas' voluntary petroleum allocation program. On August 3, more than 2 months later, my letter was acknowledged as follows:

I apologize for the inordinate delay in answering your letter, but we have been literally swamped with letters and telephone inquiries since the inception of the petroleum allocation program.

That was no exception. It has become standard operating procedure in all of the programs now being administered. Now, I do not blame the Office of Oil and Gas because it is trying to work with the lick and the promise given to it by the administration.

I do fault the attitude prevalent in this administration that the energy emergency can be handled with a minimum of staff and effort. I think it is ludicrous for one of the administration's top energy advisors—Mr. Charles DiBona—to express more concern about “an expanding bureaucracy” than with the fuel problems that bureaucracy is trying to cope with.

There is no way that we can effectively meet these problems and see to it that the vital fuel needs of all Americans are met unless we have a functioning program. If that means hiring more people, if it means printing up forms, if it means opening up new offices and putting in new telephones, so be it. It must be done.

So I am happy to cosponsor and support the pending amendment which would require the administration to advise the Congress on a regular basis what it is doing to administer the fuel programs and what it needs to do a better job. I urge its adoption.

Mr. JACKSON. Mr. President, I am prepared to accept the amendment. It is just a reporting amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to. **[Sec. 302.]**

Mr. CANNON. Mr. President, I call up a technical amendment which I offer on behalf of the Committee on Commerce, which would condition the authority conferred upon the Civil Aeronautics Board in **section 204** of this bill.

Mr. LONG. Mr. President, I ask unanimous consent that there be 10 minutes, equally divided, to discuss this amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that be done. I was going to do it anyway. In view of the fact that we got an agreement Friday, it would be time well spent.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. That is, the time to be divided between the sponsor of the amendment and the Senator from Louisiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

Will the Senator from Nevada send his amendment to the desk?

Mr. CANNON. It is already at the desk.

The legislative clerk read the amendment, as follows:

At page 20, line 8, strike out the words “the Civil Aeronautics Board”.

At page 21, line 6, add a new paragraph as follows:

(2) (A) The Civil Aeronautics Board is authorized, subject to subparagraph (C), for the duration of the energy emergency, to review and make reasonable adjustments to the operating authority of air carriers authorized to engage in air transportation pursuant to section 401 of the Federal Aviation Act in order to conserve fuel while providing for the public convenience and necessity. Such adjustments may include but need not be limited to adjusting and rationalizing the operations of such air carriers with regard to frequency or level of service and points served and reviewing or adjusting rate schedules to reflect such adjustment and rationalization. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law after hearings in accordance with section 553 of title 5 of the United States Code.

(B) Certificated carriers are directed to immediately implement programs either unilaterally, or with Civil Aeronautics Board review and approval, multilaterally, aimed at reducing unnecessary flight frequencies and wasteful capacity, consistent with the requirements and obligations of their certificates, in order to conserve fuel.

(C) The Board's authority to make adjustments and rationalizations of frequencies and levels of service contained in this paragraph shall not be exercised unless a finding is made, upon notice and hearing, that the air carriers, acting or their own initiative, are unable or unwilling to take adequate actions to conserve fuel. Any person adversely affected by an action under paragraph (2) shall be entitled to a judicial review of such action in accordance with chapter 7 of title 5 of the United States Code.

Renumber the remaining paragraphs appropriately.

Mr. CANNON. Mr. President, while I generally support and applaud the provisions of S. 2589, there is one provision of this bill which deeply troubles me and a majority of the members of the committee on commerce. The provision, in **section 204(b)(1)**, grants the Civil Aeronautics Board unprecedented and extraordinary authority to intervene in airline operations.

The fact that our committee is opposed to this authority for the Civil Aeronautics Board is not an indication that the Nation's airlines should not be forced to make sacrifices and cutbacks in order to save fuel. On the contrary, the airlines, as well as other common carriers, must cut back their flights, increase their productivity, and eliminate wasteful operations in order to conserve fuel. Presently there exists significant overcapacity in the Nation's scheduled airline system and this overcapacity exacerbates an already serious fuel shortage in the airline industry.

The air carriers and the CAB, recognizing the severity of the problem, have already taken action, unprecedented in the past, to reduce flight operations, curtail unnecessary frequencies and change operating procedures to meet the situation. In the past 30 days alone, the carriers, acting on their own initiative, have reduced operations by about 10 percent with a savings in fuel of about 800 million gallons on an annual basis.

More savings, however, are undoubtedly to be required and the carriers must continue to review their operations and cut wasteful and excessive capacity further. I and the members of my committee feel the carriers, acting with CAB guidance, can and will affect such cutbacks.

Given this background, we were strongly disturbed by the provision in this bill which in effect suspends the carefully written provisions of the Federal Aviation Act and allows the CAB to step in and virtually take over the management prerogatives of the airline industry without any showing whatsoever that such authority is needed to deal with the emergency. Most troubling was the provision which, in effect, gave the board authority, under abbreviated administrative safeguards, to tamper with airline schedules. This authority, since 1938, has been carefully reserved to carrier management on the theory that airline management, rather than the CAB, has the experts and know-how to schedule its flights to meet the public convenience and necessity.

In a spirit of cooperation and accommodation the Commerce Committee worked out with the managers of the bill a compromise on this question which is embodied in the amendment I have just offered.

Essentially, my amendment confers on the CAB the authority to step in and direct that changes be made in airline frequencies and levels of service consistent with the provisions of the Jackson bill as reported. However, my amendment would require that, before the board exercises this authority, the carriers must be given an opportunity on their own initiative to make needed changes, adjustments, and cutbacks adequate for the purposes of the maximum conservation of fuel. My amendment directs the carriers to do so, either unilaterally or, if the board approves, multilaterally. If, but only if, the carriers are unwilling or unable to effect the necessary changes or reductions would the CAB be authorized to direct such changes.

While I do not feel that such authority is called for or is necessary, I am willing to grant the authority contingent on a finding that airline management cannot do the job itself.

Mr. President, while this amendment does not reflect the position taken by my committee and I support it only reluctantly, it is offered in the spirit of compromise and expedition and is a way around a very difficult dilemma.

The Committee on Commerce has sole and exclusive jurisdiction over the transportation regulatory agencies and the statutes which govern their operation and authority. While we would have preferred to consider this bill in our committee, we waived our jurisdiction in order to expedite the process because of the national emergency. Nonetheless, we cannot abdicate our responsibility for oversight of the regulated transportation industry.

Mr. President, I am hopeful that the manager of the bill will accept this amendment and that the Senate will give it speedy approval.

Mr. LONG. Mr. President, I serve on the Commerce Committee. This amendment strikes me as one which favors vested interests and takes the attitude that the public be damned. I will explain why.

I never could understand why some airlines fly at such inconvenient times. For example, coming from Hawaii this way, the only way one can get to Washington seems to be by flying at night. If one tries to find out why he cannot leave there at 9 a.m. and come here during the day, they will find that the airlines can use their equipment more efficiently the way they do. They will fly at times most convenient to them, so they schedule their flights to leave here in the morning and one has to take the "Red-eye" flights to come back.

The reason for that is that the CAB has no right to fix those schedules. I was surprised to find that out. That same principle is being offered in this amendment.

This bill provides that, when airlines wanted to discontinue flights, the Civil Aeronautics Board would have something to say about it. Everybody knows the airlines make their money on the nonstop flights. The airlines make more money by flying nonstop, with a load of people, from here to Los Angeles than they would if they stopped five times between those two locations.

If we let the airlines decide on the flights, without having the CAB in position to decide which flights should continue or be discontinued, it would be to the advantage of the airlines to discontinue local stops and carry fully loaded planes on nonstop flights.

It is more inconvenient to me, but I would rather stop three times between here and New Orleans than to let the people of Charlotte, Birmingham, and Durham be denied adequate airline service.

The Interior and Insular Affairs Committee decided, quite correctly, I think, that the CAB ought to have some say, in the public interest, about which flights ought to be discontinued, because anybody knows it would be to the advantage of the airlines to continue fully loaded nonstop flights and discontinue milk run flights. But if we are going to serve the public interest, we ought to look and see how the public interest is affected.

As a member of the Committee on Commerce, I objected to this amendment. It makes it possible for the airlines to maximize their profits at the expense of the traveling public.

In a period of shortages, somebody ought to be concerned about the public interest. In this case, it ought to be the CAB. That is what the bill recommends. That is what the Interior and Insular Affairs Committee recommended. There is a substantial minority in the Commerce Committee which thought the CAB ought to have power to protect the public interest in the way I have suggested.

If the Senate votes for the Cannon amendment, Senators will have to go home and try to explain to the people there why, when they had three local flights before, they now have only one. That is what this amendment would allow.

Why would the airlines prefer to do away with local flights rather than long-distance nonstop flights? Because they will make more money by maintaining the nonstop flights and discontinuing local flights. I think somebody ought to protect the public interest. It ought to be the CAB. The Interior and Insular Affairs Committee recommended this provision.

This amendment was not presented until about some 5 minutes before the limitation on debate went into effect. I am not making a claim that it should not have been presented that way, but we have not had an adequate chance to debate it. However, it makes it possible for the airlines to discontinue two or three local service flights, or even the only flight, without any government authority having the authority to protect the public interest. I think the amendment should be disagreed to.

MR. CANNON. Mr. President, I would simply point out to my colleagues that what the Senator from Louisiana says could not be further from the truth. The Civil Aeronautics Board has at the present time the authority to protect the public interest, to see that flight schedules are maintained, and flight service from point A to point B, or from point A to point C, is maintained. That power is given to the board at the present time.

Congress has consistently over the years refused to grant the CAB the authority to handle the scheduling of the airlines. That is exactly what the bill would do if it stands as it is. We simply say that the board cannot schedule airline service. They have never been in the business of doing it before. They have never had that authority. We would continue it as it is now.

I direct the attention of my colleagues to the amendment. The amendment gives the board the authority, for the duration of the emergency, to review and make reasonable adjustments to the operating authority of air carriers authorized to engage in air transportation.

We want to cooperate. We want the board to have authority but we do not want them to have the authority to go out and intervene in a

matter relating to decisions as between various points to be served in the United States.

The board has the authority and it is charged with the responsibility of protecting essential service. That is required throughout the country. That is exactly where we want to leave it—to follow the provisions of the Civil Aeronautics Act, and not to change the provisions of that act in an entirely unrelated matter or a distantly related matter, under the guise of energy conservation.

I yield to the distinguished chairman of the committee.

Mr. MAGNUSON. Mr. President, I do not like to disagree with my friend from Louisiana, but I do not care what time an airplane leaves or takes off—somebody does not like that hour. Somebody does like it; somebody does not.

All we are trying to say is that we should not take it to the CAB. The basic part of the act was established many years ago. We exempted all the other independent agencies here today by some of the Fannin amendments.

The ICC does not tell the railroad what hours the trains should run. They say they have to run trains between here and there. It does not tell railroads when the freight cars should go. Nor does the Maritime Board tell the shipping lines what time they have to leave on their tours of berth-to-berth operations.

All we are saying here is that this is an energy measure. Someone may not like the schedules. However, I do not care whether they leave at 1 o'clock, 6 o'clock, or at midnight. They still have 10,000 gallons of gasoline. In other words, before the airline may abandon a line, they have to go to the CAB.

I do not believe this belongs in this bill. I agree with the Senator from Louisiana. We all get a little disturbed once in awhile. All the airlines seem to leave from 4 to 8, and in the morning they come in at the same time. However, if they did not do that, they would not be able to accommodate most of the people who travel. They do not go out and say, "We are not going to accommodate the schedule for the people who travel."

I do not think this belongs in the bill. I think that the Commerce Committee ought to have some hearings on the matter the Senator from Louisiana talks about. And we will. However, we would have to have 10,000 people in the CAB to hear all of the complaints about a plane leaving at 1 o'clock instead of 2 o'clock, and 2 o'clock instead of 3 o'clock.

These are matters that they cannot do any more than the ICC can with respect to freight cars. It is impossible. The Maritime Board cannot take care of these matters either.

The PRESIDING OFFICER. All of the time of the Senator has expired.

Mr. MAGNUSON. Mr. President, I hope the amendment will carry.

Mr. LONG. Mr. President, I ask for the yeas and nays.

Mr. MAGNUSON. I am sorry, I had my back turned.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second [putting the question]? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), the Senator from Mississippi (Mr. Stennis), and the Senator from Idaho (Mr. Church) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Illinois (Mr. Percy) would each vote "nay."

The result was announced—years 36, years 49, as follows:

[No. 508 Leg.]

YEAS—36

Bartlett	Ervin	Pearson
Bayh	Goldwater	Pell
Bellmon	Gravel	Randolph
Bennett	Griffin	Saxbe
Bible	Gurney	Stevens
Buckley	Hart	Stevenson
Byrd,	Hartke	Symington
Harry F., Jr.	Helms	Tower
Byrd, Robert C.	Hollings	Tunney
Cannon	Magnuson	Weicker
Domenici	McGee	Young
Dominick	McIntyre	
Eastland	Metcalf	

NAYS—49

Abourezk	Haskell	Muskie
Aiken	Hatfield	Nunn
Beall	Hathaway	Packwood
Bentsen	Hruska	Pastore
Biden	Hughes	Proxmire
Brooke	Humphrey	Ribicoff
Burdick	Inouye	Roth
Case	Jackson	Schweiker
Chiles	Javits	Scott, Hugh
Clark	Johnston	Scott,
Cook	Long	William L.
Cranston	Mansfield	Stafford
Dole	Mathias	Taft
Eagleton	McClellan	Talmadge
Fannin	McGovern	Thurmond
Fulbright	Montoya	Williams
Hansen	Moss	

NOT VOTING—15

Allen
Baker
Brock
Church
Cotton

Curtis
Fong
Huddleston
Kennedy
McClure

Mondale
Nelson
Percy
Sparkman
Stennis

So Mr. Cannon's amendment was rejected.

Mr. BARTLETT. Mr. President, I call up my amendment which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 28, line 14, insert the following: after the word "energy" insert: "and an analysis of the effects of such actions, if implemented, upon increasing energy supplies."

Mr. JACKSON. Mr. President, I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to. **[Sec. 303.]**

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the amendment of the Senator from Louisiana (Mr. Johnston) considered earlier in the day.

Mr. JOHNSTON. Mr. President, I ask unanimous consent to withdraw the amendment. This is a far-reaching amendment that we will consider in committee next week. I think it will be considered favorably by the committee, but I think it more appropriate that it not be acted upon at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered. The amendment is withdrawn.

If there be no further amendment to be proposed the question is on the engrossment and third reading of the bill.

The bill (S. 2589) was ordered to be engrossed for a third reading and was read the third time.

INTENT OF COAL CONVERSION—SECTION 204(a)

Mr. JAVITS. Mr. President, it is my understanding and I wish to clarify this point with the Senator from Washington that the purposes of S. 2589 are to meet the short term needs of the Nation during the emergency period which is defined as being 1 year. In particular any conversion to coal or other fuels authorized or permitted by **section 204(a)** of this act shall be permitted for the purpose of reducing or eliminating the emergency declared by this act. Further, in directing a conversion to the burning of coal or other fuels which fuels I assume can include high sulfur oil under the Clean Air Act amendment, the President can only direct such action to meet the energy needs during this emergency period. And it is with this immediate energy situation in mind that appropriate action will be take on the part of the Environmental Protection Agency. I had wanted to offer a short clarifying amendment to make these points explicit but I have been assured that this is the interpretation of the act shared by the Senator from Washington and that there was no need for an amendment on these points. Is my understanding correct?

Mr. JACKSON. The Senator is correct. **Section 204(a)** is a short-term provision designed to deal with the critical shortages we now face. The committee is, however, considering S. 2652, the National Coal Conversion Act, which would establish a long-term policy for substituting coal as a primary energy source for electrical powerplants and large industrial energy users.

Mr. INOUE. **Section 203** of the legislation states that the rationing and conservation program which the President is to promulgate 15 days after the date of enactment of the act shall include "a ban on all advertising encouraging increased energy consumption." I am concerned that this provision could mean a ban on tourism advertising. Although this is apparently not the intention of the bill, the statutory language is broad enough to be so construed. I would appreciate it if in a colloquy on the floor you might clarify just what the intention of this provision is.

Mr. JACKSON. The intent of the committee in including the language you refer to was to end advertisements encouraging wasteful and unnecessary energy consumption. It is my clear understanding that travel advertisements represent a legitimate and necessary business activity on the part of the tourism industry, and would not be included in the kinds of ads to be banned.

Mr. GOLDWATER. Mr. President, when this bill was first introduced to the floor, I thought it had merit and I intended to vote for it, but during the days of debate and amendments, and particularly this last day when the bill was so changed, emasculated and affected by amendments offered and accepted without debate, I must register my protest. In the nearly 18 years I have served in this body, I do not believe I have ever seen the Senate worse than it was today. We have passed an action that will not contribute one bit to the solution of the problem which is an inadequacy of fuel. We have added amendments, many of which, in effect would circumvent existing law, existing agencies, and will play havoc with our free markets. For these and other reasons I will vote against the bill.

Mr. DOLE. Mr. President, the Emergency Energy Act is a broad and sweeping proposal. It attempts to deal with a significant problem in America by granting extraordinary powers to the President, curtailing the application of several major laws and generally opening the door to an unprecedented Federal program for limiting energy consumption in the United States.

Of course, these are critical times. No responsible public official or informed leader disputes the fact that this country is facing the most serious energy supply situation in its history. No one yet knows or can know how serious it will be, but forecasts range from isolated personal inconvenience and annoyance to widespread economic hardship and suffering.

The problem boils down to two major factors: First, we have not developed our vast domestic energy sources—including oil, natural gas and nuclear generating plants—as fully as we should have, so second, we have become overly and dangerously dependent on foreign sources.

RECORD OF ACTION AND INACTION

As we attempt to formulate a policy and a program to deal with the crisis, attempts to place blame or responsibility are of little use,

and I will not do so. But it may be instructive to look back just a bit to see what has been done as well as what has not been done—to forestall or prevent the situation we are facing now.

The following statement is significant:

For most of our history, a plentiful supply of energy is something the American people have taken very much for granted. In the past twenty years alone, we have been able to double our consumption of energy without exhausting the supply. But the assumption that sufficient energy will always be readily available has been brought sharply into question within the last year. The brownouts that have affected some areas of our country, the possible shortages of fuel that were threatened last fall, the sharp increases in certain fuel prices and our growing awareness of the environmental consequences of energy production have all demonstrated that we cannot take our energy supply for granted any longer.

Those were the opening words of the first Presidential message on energy ever sent to the Congress. It was submitted by President Nixon more than 30 months ago.

This message contained a 14-point program for the development of new and better energy sources and the conservation of the energy used by all consumers. That message was submitted on June 4, 1971.

On December 1, 1969, the following vote was taken in the Senate:

I ask unanimous consent to have the analysis of Senate vote No. 141, 91st Congress, First Session be printed in the Record at this point.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

TAX REFORM ACT OF 1969

Subject: Tax Reform Act of 1969 (H.R. 13270). Ellender-Stevens amendment to retain the 27½-percent depletion allowance for oil and gas (instead of cutting it to 23 percent as in the committee bill).

Action: The amendment was rejected.

The result was announced—Yeas 30, Nays 62, as follows:

YEAS—30

Allott, Bellmon, Bennett, Bible, Burdick, Cotton, Curtis, Dole, Dominick, Eastland.

Ellender, Fannin, Fulbright, Gurney, Hansen, Harris, Hruska, Long, Mansfield, McClellan.

McGee, Montoya, Murphy, Pearson, Stennis, Stevens, Thurmond, Tower, Yarborough, Young, N. Dak.

NAYS—62

Aiken, Allen, Baker, Bayh, Boggs, Brooke, Byrd, Va., Byrd, W. Va., Cannon, Case, Church, Cook, Cooper, Cranston, Dodd, Eagleton, Ervin, Fong, Goodell, Gore, Griffin.

Hart, Hartke, Hatfield, Holland, Hughes, Inouye, Jackson, Javits, Jordan, N. C., Jordan, Idaho, Kennedy, Magnuson, Mathias, McCarthy, McGovern, McIntyre, Metcalf, Miller, Mondale, Moss, Muskie.

Nelson, Packwood, Pastore, Pell, Prouty, Proxmire, Randolph, Ribicoff, Russell, Saxbe, Schweiker, Scott, Smith, Maine, Sparkman, Spong, Talmadge, Tydings, Williams, N.J., Williams, Del., Young, Ohio.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Gravel, for.

NOT VOTING—7

Anderson, Goldwater, Hollings, Mundt, Percy, Smith, Ill., Symington.

Mr. DOLE. Now, I am sure that other statements, messages, and votes could be produced to support one shade of opinion or another. But the record should show—and it does—that some have recognized, for

many years, the vital importance of this country being sufficient in its energy supplies, while others have not.

I cite these points from the public record, not in an effort to blame anyone for anything, but only to show that if certain actions had not been taken several years ago or if others had been taken at the time they were suggested, we might not be here today trying to decide how best to deal with an energy emergency.

If the depletion allowance had not been cut we might have had enough exploration in the country to reverse the trend of declining new discoveries. If some of the President's proposals—including the conservation measures—had been followed—we might not be so concerned today about where our next drops of heating oil, gasoline, and LP gas are coming from.

So I believe it is important to keep these points in mind as we consider the emergency energy act and all its ramifications.

A STRONG MEASURE

Let me say, quite frankly, that it is a strong bill. It grants the President immense power over the use, production and conservation of energy in our country. And these powers will touch every citizen. It provides for mandatory rationing, one of the strongest steps that can be taken to deal with any supply problem. It provides for heavy penalties for violating the act's programs. It contains authority for widespread governmental interference with the workings of business and industry by regulatory agencies. It carves out exceptions in the environmental structures of the Clean Air Act and the National Environmental Policy Act.

I would say to those who are in a rather constant state of alarm about the erosion of congressional power and the growth of Presidential power that they know what they are voting for. It is a strong bill. But it is no Gulf of Tonkin resolution. Everyone knows what the bill is and what it will do.

So let those who vote for the bill do so, but when these powers and provisions are put into effect, let them not go about the press gallery complaining and wailing about a President—any President—becoming a dictator. The Congress knows what it is doing and should accept responsibility for it.

SUPPORT FOR ACT

Let me say in conclusion that I do support the bill—with some regret, however, that such a measure has been forced upon us by decades of wastefulness in the use of energy, years of ill-advised energy-related policies, and too many examples of short-sighted thinking by industry, Congress, the executive branch and the general public.

Perhaps some good will come out of the whole situation. Perhaps, since the Arab oil cutoff came this year, rather than next year or 5 years ahead, we will be able to avoid becoming intolerably dependent on foreign energy sources while there is still time to reestablish our self-sufficiency.

The President's call for a project of independence to meet our energy needs here at home by 1980 is one to which every American should respond.

We may face a difficult period until the job is done, but the requirement to do so is clear and we must unite in the effort. I believe America is capable of meeting the challenge—as it has done on so many other occasions in the past.

And I am hopeful that the Emergency Energy Act will prove to be a useful—if not entirely pleasant—step toward securing the energy resource future of our Nation.

I ask unanimous consent that the full text of the President's June 4, 1971, energy message be printed in the Record at this point.

There being no objection, the message was ordered to be printed in the Record, as follows:

ENERGY RESOURCES—THE PRESIDENT'S MESSAGE TO THE CONGRESS, JUNE 4, 1971

To the Congress of the United States:

For most of our history, a plentiful supply of energy is something the American people have taken very much for granted. In the past twenty years alone, we have been able to double our consumption of energy without exhausting the supply. But the assumption that sufficient energy will always be readily available has been brought sharply into question within the last year. The brownouts that have affected some areas of our country, the possible shortages of fuel that were threatened last fall, the sharp increases in certain fuel prices and our growing awareness of the environmental consequences of energy production have all demonstrated that we cannot take our energy supply for granted any longer.

A sufficient supply of clean energy is essential if we are to sustain healthy economic growth and improve the quality of our national life. I am therefore announcing today a broad range of actions to ensure an adequate supply of clean energy for the years ahead. Private industry, of course, will still play the major role in providing our energy, but government can do a great deal to help in meeting this challenge.

My program includes the following elements:

To Facilitate Research and Development for Clean Energy:

A commitment to complete the successful demonstration of the liquid metal fast breeder reactor by 1980.

More than twice as much Federal support for sulfur oxide control demonstration projects in Fiscal Year 1972.

An expanded program to convert coal into a clean gaseous fuel.

Support for a variety of other energy research projects in fields such as fusion power, magnetohydrodynamic power cycles, and underground electric transmission.

To Make Available the Energy Resources on Federal Lands:

Acceleration of oil and gas lease sales on the Outer Continental Shelf, along with stringent controls to protect the environment.

A leasing program to develop our vast oil shale resources, provided that environmental questions can be satisfactorily resolved.

Development of a geothermal leasing program beginning this fall.

To Assure a Timely Supply of Nuclear Fuels:

Begin work to modernize and expand our uranium enrichment capacity.

To Use Our Energy More Wisely:

A New Federal Housing Administration standard requiring additional insulation in new federally insured homes.

Development and publication of additional information on how consumers can use energy more efficiently.

Other efforts to encourage energy conservation.

To Balance Environmental and Energy Needs:

A system of long-range open planning of electric power plant sites and transmission line routes with approval by a State or regional agency before construction.

An incentive charge to reduce sulfur oxide emissions and to support further research.

To Organize Federal Efforts More Effectively:

A single structure within the Department of Natural Resources uniting all important energy resource development programs.

THE NATURE OF THE CURRENT PROBLEMS

A major cause of our recent energy problems has been the sharp increase in demand that began about 1967. For decades, energy consumption had generally grown at a slower rate than the national output of goods and services. But in the last four years it has been growing at a faster pace and forecasts of energy demand a decade from now have been undergoing significant upward revisions.

This accelerated growth in demand results partly from the fact that energy has been relatively inexpensive in this country. During the last decade, the prices of oil, coal, natural gas and electricity have increased at a much slower rate than consumer prices as a whole. Energy has been an attractive bargain in this country—and demand has responded accordingly.

In the years ahead, the need of a growing economy will further stimulate this demand. And the new emphasis on environmental protection means that the demand for cleaner fuels will be especially acute. The primary cause of air pollution, for example, is the burning of fossil fuels in homes, in cars, in factories and in power plants. If we are to meet our new national air quality standards, it will be essential for us to use stack gas cleaning systems in our larger power and other industrial plants and to use cleaner fuels virtually all of our new residential, commercial and industrial facilities, and in some of our older facilities as well.

Together, these two factors—growing demand for energy and growing emphasis on cleaner fuels—will create an extraordinary pressure on our fuel supplies.

The task of providing sufficient clean energy is made especially difficult by the long lead times required to increase energy supply. To move from geological exploration to oil and gas well production now takes from 3 to 7 years. New Coal mines typically require 3 to 5 years to reach the production stage and it takes 5 to 7 years to complete a large steam power plant. The development of the new technology required to minimize environmental damage can further delay the provision of additional energy. If we are to take full advantage of our enormous coal resources, for example, we will need mining systems that do not impair the health and safety of miners or degrade the landscape and combustion systems that do not emit harmful quantities of sulfur oxides, other noxious gases, and particulates into the atmosphere. But such systems may take several years to reach satisfactory performance. That is why our efforts to expand the supply of clean energy in America must immediately be stepped up.

1. Research and development goals for clean energy

Our past research in this critical field has produced many promising leads. Now we must move quickly to demonstrate the best of these new concepts on a commercial scale. Industry should play the major role in this area, but government can help by providing technical leadership and by sharing a portion of the risk for costly demonstration plants. The time has now come for government and industry to commit themselves to a joint effort to achieve commercial scale demonstrations in the most crucial and most promising clean energy development areas—the fast breeder reactor, sulfur oxide control technology and coal gasification.

a. Sulfur Oxide Control Technology.

A major bottleneck in our clean energy program is the fact that we cannot now burn coal or oil without discharging its sulfur content into the air. We need new technology which will make it possible to remove the sulfur before it is emitted to the air.

Working together, industry and government have developed a variety of approaches to this problem. However, the new air quality standards promulgated under the Clean Air Amendments of 1970 require an even more rapid development of a suitable range of stack gas cleaning techniques for removing sulfur oxides. I have therefore requested funds in my 1972 budget to permit the Environmental Protection Agency to devote an additional \$15 million to this area, more than doubling the level of our previous efforts. This expansion means that a total of six different techniques can be demonstrated in partnership with industry during the next three or four years.

b. Nuclear Breeder Reactor.

Our best hope today for meeting the Nation's growing demand for economical clean energy lies with the fast breeder reactor. Because of its highly efficient

use of nuclear fuel, the breeder reactor could extend the life of our natural uranium fuel supply from decades to centuries, with far less impact on the environment than the power plants which are operating today.

For several years the Atomic Energy Commission has placed the highest priority on developing the liquid metal fast breeder. Now this project is ready to move out of the laboratory and into the demonstration phase with a commercial size plant. But there still are major technical and financial obstacles to the construction of a demonstration plant of some 300 to 500 megawatts. I am therefore requesting an additional \$27 million in Fiscal Year 1972 for the Atomic Energy Commission's liquid metal fast breeder reactor program—and for related technological and safety programs—so that the necessary engineering groundwork for demonstration plants can soon be laid.

What about the environmental impact of such plants? It is reassuring to know that the releases of radioactivity from current nuclear reactors are well within the national safety standards. Nevertheless, we will make every effort to see that these new breeder reactors emit even less radioactivity to the environment than the commercial light water reactors which are now in use.

I am therefore directing the Atomic Energy Commission to ensure that the new breeder plants be designed in a way which inherently prevents discharge to the environment from the plant's radioactive effluent systems. The Atomic Energy Commission should also take advantage of the increased efficiency of these breeder plants, designing them to minimize waste heat discharges. Thermal pollution from nuclear power plants can be materially reduced in the more efficient breeder reactors.

We have very high hopes that the breeder reactor will soon become a key element in the national fight against air and water pollution. In order further to inform the interested agencies and the public about the opportunities in this area, I have requested the early preparation and review by all appropriate agencies of a draft environmental impact statement for the breeder demonstration plant in accordance with Section 102 of the National Environmental Policy Act. This procedure will ensure compliance with all environmental quality standards before plant construction begins.

In a related area, it is also pertinent to observe that the safety record of civilian power reactors in this country is extraordinary in the history of technological advances. For more than a quarter century—since the first nuclear chain reaction took place—no member of the public has been injured by the failure of a reactor or by an accidental release of radioactivity. I am confident that this record can be maintained. The Atomic Energy Commission is giving top priority to safety considerations in the basic design of the breeder reactor and this design will also be subject to a thorough review by the independent Advisory Committee on Reactor Safeguards, which will publish the results of its investigation.

I believe it important to the Nation that the commercial demonstration of a breeder reactor be completed by 1980. To help achieve that goal, I am requesting an additional \$50 million in Federal funds for the demonstration plant. We expect industry—the utilities and manufacturers—to contribute the major share of the plant's total cost, since they have a large and obvious stake in this new technology. But we also recognize that only if government and industry work closely together can we maximize our progress in this vital field and thus introduce a new era in the production of energy for the people of our land.

c. Coal Gasification.

As we carry on our search for cleaner fuels, we think immediately of the cleanest fossil fuel—natural gas. But our reserves of natural gas are quite limited in comparison with our reserves of coal.

Fortunately, however, it is technically feasible to convert coal into a clean gas which can be transported through pipelines. The Department of the Interior has been working with the natural gas and coal industries on research to advance our coal gasification efforts and a number of possible methods for accomplishing this conversion are under development. A few, in fact, are now in the pilot plant stage.

We are determined to bring greater focus and urgency to this effort. We have therefore initiated a cooperative program with industry to expand the number of pilot plants, making it possible to test new methods more expeditiously so that the appropriate technology can soon be selected for a large-scale demonstration plant.

The Federal expenditure for this cooperative program will be expanded to \$20 million a year. Industry has agreed to provide \$10 million a year for this effort. In general, we expect that the Government will continue to finance the larger share of pilot plants and that industry will finance the larger share of the demonstration plants. But again, the important points is that both the Government and industry are now strongly committed to move ahead together as promptly as possible to make coal gasification a commercial reality.

d. Other Research and Development Efforts.

The fast breeder reactor, sulfur oxide controls and coal gasification represent our highest priority research and development projects in the clean energy field. But they are not our only efforts. Other ongoing projects include:

Coal Mine Health and Safety Research. In response to a growing concern for the health and safety of the men who mine the Nation's coal and in accordance with the Federal Coal Mine Health and Safety Act of 1969, the Bureau of Mines research effort has been increased from a level of \$2 million in Fiscal Year 1969 to \$30 million in Fiscal Year 1972.

Controlled Thermonuclear Fusion Research. For nearly two decades the Government has been funding a sizeable research effort designed to harness the almost limitless energy of nuclear fusion for peaceful purposes. Recent progress suggests that the scientific feasibility of such projects may be demonstrated in the 1970s and we have therefore requested an additional \$2 million to supplement the budget in this field for Fiscal Year 1972. We hope that work in this promising area will continue to be expanded as scientific progress justifies larger scale programs.

Coal Liquefaction. In addition to its coal gasification work, the Department of the Interior has underway a major pilot plant program directed toward converting coal into cleaner liquid fuels.

Magnetohydrodynamic Power Cycles. MUD is a new and more efficient method of converting coal and other fossil fuels into electric energy by burning the fuel and passing the combustion products through a magnetic field at very high temperatures. In partnership with the electric power industry, we have been working to develop this new system of electric power generation.

Underground Electric Transmission. Objections have been growing to the overhead placement of high voltage power lines, especially in areas of scenic beauty or near centers of population. Again in cooperation with industry, the Government is funding a research program to develop new and less expensive techniques for burying high voltage electric transmission lines.

Nuclear Reactor Safety and Supporting Technology. The general research and development work for today's commercial nuclear reactors was completed several years ago, but we must continue to fund safety-related efforts in order to ensure the continuance of the excellent safety record in this field. An additional \$3 million has recently been requested for this purpose to supplement the budget in Fiscal Year 1972.

Advanced Reactor Concepts. The liquid metal fast breeder is the priority breeder reactor concept under development, but the Atomic Energy Commission is also supporting limited alternate reactor programs involving gas cooled reactors, molten salt reactors and light water breeders.

Solar Energy. The sun offers an almost unlimited supply of energy if we can learn to use it economically. The National Aeronautics and Space Administration and the National Science Foundation are currently reexamining their efforts in this area and we expect to give greater attention to solar energy in the future.

The key to meeting our twin goals of supplying adequate energy and protecting the environment in the decades ahead will be a balanced and imaginative research and development program. I have therefore asked my Science Adviser, with the cooperation of the Council on Environmental Quality and the interested agencies, to make a detailed assessment of all of the technological opportunities in this area and to recommend additional projects which should receive priority attention.

2. Making Available the Energy Resources of Federal Lands

Over half of our Nation's remaining oil and gas resources, about 40 percent of our coal and uranium, 80 percent of our oil shale, and some 60 percent of our geothermal energy sources are now located on Federal lands. Programs to make these resources available to meet the growing energy requirements of the Nation are therefore essential if shortages are to be averted. Through appropriate leasing programs, the Government should be able to recover the fair market value

of these resources, while requiring developers to comply with requirements that will adequately protect the environment.

To supplement the efforts already underway to develop the fuel resources of the lower 48 States and Alaska. I am announcing today the following new programs:

a) *Leasing on the Outer Continental Shelf—An Accelerated Program.*

The Outer Continental Shelf has proved to be a prolific source of oil and gas, but it has also been the source of troublesome oil spills in recent years. Our ability to tap the great potential of offshore areas has been seriously hampered by these environmental problems.

The Department of the Interior has significantly strengthened the environmental protection requirements controlling offshore drilling and we will continue to enforce these requirements very strictly. As a prerequisite to Federal lease sales, environmental assessments will be made in accordance with Section 102 of the National Environmental Policy Act of 1969.

Within these clear limits, we will accelerate our efforts to utilize this rich source of fuel. In order to expand productive possibilities as rapidly as possible, the accelerated program should include the sale of new leases not only in the highly productive Gulf of Mexico, but also some other promising areas. I am therefore directing the Secretary of the Interior to increase the offerings of oil and gas leases and to publish a schedule for lease offerings on the Outer Continental Shelf during the next five years, beginning with a general lease sale and a drainage sale this year.

b. *Oil Shale—A Program for Orderly Development.*

At a time when we are facing possible energy shortage, it is reassuring to know that there exists in the United States an untapped shale oil resource containing some 600 billion barrels in high grade deposits. At current consumption rates, this resource represents 150 years supply. About 80 billion barrels of this shale oil are particularly rich and well situated for early development. This huge resource of very low sulfur oil is located in the Rocky Mountain area, primarily on Federal land.

At present there is no commercial production of shale oil. A mixture of problems—environmental, (technical and economic—have combined to thwart past efforts at development.

I believe the time has come to begin the orderly formulation of a shale oil policy—not by any head-long rush toward development but rather by a well considered program in which both environmental protection and the recovery of a fair return to the Government are cardinal principles under which any leasing takes place. I am therefore requesting the Secretary of the Interior to expedite the development of an oil shale leasing program including the preparation of an environment impact statement. If after reviewing this statement and comments he finds that environmental concerns can be satisfied, he shall then proceed with the detailed planning. This work would also involve the States of Wyoming, Colorado and Utah and the first lease would be scheduled for next year.

c. *Geothermal Energy.*

There is a vast quantity of heat stored in the earth itself. Where this energy source is close to the surface, as it is in the Western States, it can readily be tapped to generate electricity, to heat homes, and to meet other energy requirements. Again, this resource is located primarily on Federal lands.

Legislation enacted in recent months permits the Federal Government, for the first time, to prepare for a leasing program in the field of geothermal energy. Classification of the lands involved is already underway in the Department of the Interior. I am requesting the Secretary of the Interior to expedite a final decision on whether the first competitive lease sale should be scheduled for this fall—taking into account of course, his evaluation of the environmental impact statement.

3. *Natural gas supply*

For the past 25 years, natural gas has supplied much of the increase in the energy supply of the United States. Now the relatively clean form of energy is in even greater demand to help satisfy air quality standards. Our present supply of natural gas is limited, however, and we are beginning to face shortages which could intensify as we move to implement the air quality standards. Additional supplies of gas will therefore be one of our most urgent energy needs in the next few years.

Federal efforts to augment the available supplies of natural gas include:

Accelerate leasing on Federal lands to speed discovery and development of new natural gas fields.

Moving ahead with a demonstration project to gasify coal.

Recent actions by the Federal Powers Commission providing greater incentives for industry to increase its search for new sources of natural gas and to commit its discoveries to the interstate market.

Facilitating imports of both natural and liquefied gas from Canada and from other nations.

Progress in nuclear stimulation experiments which seek to produce natural gas from tight geologic formations which cannot presently be utilized in ways which are economically and environmentally acceptable.

This administration is keenly aware of the need to take ever reasonable action to enlarge the supply of clean gaseous fuels. We intend to take such action and we expect to get good results.

4. Imports from Canada

Over the years, the United States and Canada have steadily increased their trade in energy. The United States exports some coal to Canada, but the major items of trade are oil and gas which are surplus to Canadian needs but which find a ready market in the United States.

The time has come to develop further this mutually advantageous trading relationship. The United States is therefore prepared to move promptly to permit Canadian crude oil to enter this country, free of any quantitative restraints, upon agreement as to measures needed to prevent citizens of both our countries from being subjected to oil shortages, or threats of shortages. We are ready to proceed with negotiations and we look to an early conclusion.

5. Timely Supplies of Nuclear Fuels

The Nation's nuclear fuel supply is in a state of transition. Military needs are now relatively small but civilian needs are growing rapidly and will be our dominant need for nuclear fuel in the future. With the exception of uranium enrichment, the nuclear energy industry is now in private hands.

I expect that private enterprise will eventually assume the responsibility for uranium enrichment as well, but in the meantime the Government must carry out its responsibility to ensure that our enrichment capacity expands at a rate consistent with expected demands.

There is currently no shortage of enriched uranium or enriching capacity. In fact, the Atomic Energy Commission has substantial stocks of enriched uranium which has already been produced for later use. However, plant expansions are required so that we can meet the growing demands for nuclear fuel in the late 1970s—both in the United States and in other nations for which this country is now the principal supplier.

The most economical means presently available for expanding our capacity in this field appears to be the modernization of existing gaseous diffusion plants at Oak Ridge, Tennessee; Portsmouth, Ohio; and Paducah, Kentucky—through a Cascade Improvement Program. This program will take a number of years to complete and we therefore believe that it is prudent to initiate the program at this time rather than run the risk of shortages at a later date. I am therefore releasing \$16 million to start the Cascade Improvement Program in Fiscal Year 1972. The pace of the improvement program will be tailored to fit the demands for enriched uranium in the United States and in other countries.

6. Using Our Energy More Wisely

We need new sources of energy in this country, but we also need to use existing energy as efficiently as possible. I believe we can achieve the ends we desire—homes warm in winter and cool in summer, rapid transportation, plentiful energy for industrial production and home appliances—and still place less of a strain on our overtaxed resources.

Historically, we have converted fuels into electricity and have used other sources of energy with ever increasing efficiency. Recent data suggest, however, that this trend may be reversing—thus adding to the drain on available resources. We must get back on the road of increasing efficiency—both at the point of production and at the point of consumption, where the consumer himself can do a great deal to achieve considerable savings in his energy bills.

We believe that part of the answer lies in pricing energy on the basis of its full costs to society. One reason we use energy so lavishly today is that the price

of energy does not include all of the social costs of producing it. The costs incurred in protecting the environment and the health and safety of workers, for example, are part of the real cost of producing energy—but they are not now all included in the price of the product. If they were added to that price, we could expect that some of the waste in the use of energy would be eliminated. At the same time, by expanding clean fuel supplies, we will be working to keep the overall cost of energy as low as possible.

It is also important that the individual consumer be fully aware of what his energy will cost if he buys a particular home or appliance. The efficiency of home heating or cooling systems and of other energy intensive equipment are determined by builders and manufacturers who may be concerned more with the initial cost of the equipment than with the operating costs which will come afterward. For example, better thermal insulation in a home or office building may save the consumer large sums in the long run—and conserve energy as well—but for the builder it merely represents an added expense.

To help meet one manifestation of this problem, I am directing the Secretary of Housing and Urban Development to issue revised standards for insulation applied in new federally insured homes. The new Federal Housing Administration standards will require sufficient insulation to reduce the maximum permissible heat loss by about one-third for a typical 1200 square foot home—and by even more for larger homes. It is estimated that the fuel savings which will result each year from the application of these new standards will, in an average climate, equal the cost of the addition insulation required.

While the Federal Government can take some actions to conserve energy through such regulations, the consumer who seeks the most for his energy dollar in the marketplace is the one who can have the most profound influence. I am therefore asking my Special Assistant for Consumer Affairs—in cooperation with industry and appropriate Government agencies—to gather and publish additional information in this field to help consumers focus on the operating costs as well as the initial cost of energy intensive equipment.

In addition, I would note that the Joint Board on Fuel Supply and Fuel Transport chaired by the Director of the Office of Emergency Preparedness is developing energy conservation measures for industry, government, and the general public to help reduce energy use in times of particular shortage and during pollution crises.

7. Power Plant Siting

If we are to meet growing demands for electricity in the years ahead, we cannot ignore the need for many new power plants. These plants and their associated transmission lines must be located and built so as to avoid major damage to the environment, but they must also be completed on time so as to avoid power shortages. These demands are difficult to reconcile—and often they are not reconciled well. In my judgment the lesson of the recent power shortages and of the continuing disputes over power plant siting and transmission line routes is that the existing institutions for making decisions in this area are not adequate for the job. In my Special Message to the Congress on the Environment last February, I proposed legislation which would help to alleviate these problems through longer range planning by the utilities and through the establishment of State or regional agencies to license new bulk power facilities prior to their construction.

Hearings are now being held by the Interstate and Foreign Commerce Committee of the House of Representatives concerning these proposals and other measures which would provide an open planning and decision-making capacity for dealing with these matters. Under the administration bill, long-range expansion plans would be presented by the utilities ten years before construction was scheduled to begin, individual alternative power plant sites would be identified five years ahead, and detailed design and location of specific plants and transmission lines would be considered two years in advance of construction. Public hearings would be held far enough ahead of construction so that they could influence the siting decision, helping to avoid environmental problems without causing undue construction delays. I urge the Congress to take prompt and favorable action on this important legislative proposal. At the same time steps will be taken to ensure that Federal licenses and permits are handled as expeditiously as possible.

8. The Role of the Sulfur Oxides Emissions Charge

In my environmental message last February I also proposed the establishment of a sulfur oxides emissions charge. The emissions charge would have the effect

of building the cost of sulfur oxide pollution into the price of energy. It would also provide a strong economic incentive for achieving the necessary performance to meet sulfur oxide standards.

The funds generated by the emissions charge would be used by the Federal Government to expand its program to improve environmental quality, with special emphasis on the development of adequate supplies of clean energy.

9. Government Reorganization—An Energy Administration

But new programs alone will not be enough. We must also consider how we can make these programs do what we intend them to do. One important way of fostering effective performance is to place responsibility for energy questions in a single agency which can execute and modify policies in a comprehensive and unified manner.

The Nation has been without an integrated energy policy in the past. One reason for this situation is that energy responsibilities are fragmented among several agencies. Often authority is divided according to types and uses of energy. Coal, for example, is handled in one place, nuclear energy in another—but responsibility for considering the impact of one on the other is not assigned to any single authority. Nor is there any single agency responsible for developing new energy sources such as solar energy or new conversion systems such as the fuel cell. New concerns—such as conserving our fossil fuels for non-fuel uses—cannot receive the thorough and thoughtful attention they deserve under present arrangements.

The reason for all these deficiencies is that each existing program was set up to meet a specific problem of the past. As a result, our present structure is not equipped to handle the relationships between these problems and the emergence of new concerns.

The need to remedy these problems becomes more pressing every day. For example, the energy industries presently account for some 20 percent of our investment in new plant and equipment. This means the inefficiencies resulting from uncoordinated government programs can be very costly to our economy. It is also true that energy sources are becoming increasingly interchangeable. Coal can be converted to gas, for example, and even to synthetic crude oil. If the Government is to perform adequately in the energy field, then it must act through an agency which has sufficient strength and breadth of responsibility.

Accordingly, I have proposed that all of our important Federal energy resource development programs be consolidated within the new Department of Natural Resources.

The single energy authority which would thus be created would be better able to clarify, express, and execute Federal energy policy than any unit in our present structure. The establishment of this new entity would provide a focal point where energy policy in the executive branch could be harmonized and rationalized.

One of the major advantages of consolidating energy responsibilities would be the broader scope and greater balance this would give to research and development work in the energy field. The Atomic Energy Commission, for instance, has been successful in its mission of advancing civilian nuclear power, but this field is now intimately interrelated with coal, oil and gas, and Federal electric power programs with which the Atomic Energy Commission now has very little to do. We believe that the planning and funding of civilian nuclear energy activities should now be consolidated with other energy efforts in an agency charged with the mission of insuring that the total energy resources of the Nation are effectively utilized. The Atomic Energy Commission would still remain intact, in order to execute the nuclear programs and any related energy research which may be appropriate as part of the overall energy program of the Department of Natural Resources.

Until such time as this new Department comes into being, I will continue to look to the Energy Subcommittee of the Domestic Council for leadership in analyzing and coordinating overall energy policy questions for the executive branch.

CONCLUSION

The program I have set forth today provides the basic ingredients for a new effort to meet our clean energy needs in the years ahead.

The success of this effort will require the cooperation of the Congress and of the State and local governments. It will also depend on the willingness of indus-

try to meet is responsibilities in serving customers and in making necessary capital investments to meet anticipated growth. Consumers, too, will have a key role to play as they learn to conserve energy and as they come to understanding that the cost of environmental protection must, to a major extent, be reflected in consumer prices.

I am confident that the various elements of our society will be able to work together to meet our clean energy needs. And I am confident that we can therefore continue to know the blessings of both a high-energy civilization and a beautiful and healthy environment.

RICHARD NIXON.

THE WHITE HOUSE, June 4, 1971

Mr. FULBRIGHT. Mr. President, I am impressed by the views of the Senior Senator from Oregon, a member of the Committee on Interior and Insular Affairs. He is correct when he says in his minority views:

No one denies the seriousness of our energy problems, nor the need for creative solutions. I cannot understand, however, why Congress is so eager to throw away the leadership role it has established in finding solutions to our energy problems. . . . The Administration should suggest specific programs rather than seek a blank check. Congress should consider specific measures not grant carte blanche authority.

Mr. President, this bill was brought to the floor after an absolute minimum of hearings and consideration on one of the most complex matters ever facing this country. This bill gives direct control to the President or his agents of every sector of the economic life of this country.

This bill will create a bureaucratic nightmare, the like of which this country has never seen.

I am unable to accept responsibility for the creation of such a nightmare.

We are confronted with two prospects, the short term and the long term.

In the short term, 3 to 5 years, there is no satisfactory alternative to the lifting of the embargo on oil from the Arab States.

To achieve this, we need to impress upon the Israeli Government the necessity of negotiating a settlement of the Middle East problem in accordance with the principles of the Security Council Resolution 242 of 1967. If such a settlement is brought about within the next 4 months and the embargo is lifted, the existing allocation authority would see us through unless we should have an unusually severe winter, in which case a limited rationing of fuel oil might be necessary. In any case, a resumption of access to Persian Gulf and African oil would make our problem manageable.

For the long terms beyond 5 years, we can look to Alaskan oil increased domestic production, and the utilization of our coal reserves for relief. These programs should proceed in any case because of balance-of-payments considerations. I believe there is no serious difference of opinions on this aspect of our problem.

The seriousness of the short-term crisis cannot be overstated. If this bill is enacted and as a result we are lulled into the attitude that we have taken significant action to solve our near-term problems, and therefore do not insist upon a settlement of the Arab-Israeli conflict, as a result of which the embargo is not lifted, it is more than probable that we shall have a serious disruption of our entire economy, with all the attendant hardship and disaffection which will further weaken the faith and confidence of our people in our political and economic systems.

Mr. BUCKLEY. Mr. President, no one questions the imperative need to authorize certain extraordinary measures if we are to cope with the current emergency. No one questions the fact that we must spread the impact of shortages in fuel oil and other petroleum products as equitably as possible through some method of allocation, or that we must immediately institute nondiscriminatory energy conservation measures so that we may stretch out our limited supplies.

Having said all this, I will vote against the National Energy Emergency Act as it has been reported out by the Interior Committee and further modified through floor amendments. I will do so because it is the only way I can underscore the dangers and shortcomings of this otherwise essential legislation. If enough of my colleagues will signal their concerns by joining me in a negative vote, we may encourage the House to strike those provisions that vest unnecessary or harmful authority in the Executive.

As I see them, the following are the principal shortcomings of this legislation:

I fear that Congress will lull itself into a mistaken belief that the passage of this emergency authority will somehow absolve it from the responsibility to see that that emergency is of the shortest duration possible. The Congress has not yet acknowledged that the shortages of natural gas and refineries are in fact the result of interferences by Government in the marketplace. Nor does it cope with the shortages in refinery products and oilfield drilling equipment caused by the economic stabilization program. The bill fails to deal with the Federal Power Commission's regulation of the wellhead price of natural gas, a mistaken Federal energy policy which long ago destroyed adequate incentives to search for gas for commitment to interstate pipelines. The Senate has rejected amendments that sought to lift the economic controls that stultify the search for development of new sources of energy.

In the absence of such fundamental changes in Federal policy toward energy pricing, we are destined to see the current energy emergency develop into a chronic one on the basis of which Congress will be asked to institutionalize the extraordinary and dangerous delegation of power that S. 2589 bestows upon the Presidency.

Surely, if the price of scarce fuels and energy is permitted to rise, in response to market forces, rather than held down by Government regulation, industrial users and utilities will be forced to institute process changes which will conserve the use of energy; likewise, the ultimate consumer will begin to make choices based on the amount of energy which went into the products he buys, or on how he heats his home or how he chooses to travel.

In the short term, a system for allocating certain fuels will be required, for it takes time to augment our energy reserves under the stimulus of higher prices. But in the longer term, the best way to deal with a shortage is not to distribute the shortage among buyers, but to increase the supply by allowing consumers to communicate their wishes to producers through changes in prices in the marketplace. Congress and others responsible for the development of Federal energy policy must recognize this economic fact of life and respond accordingly.

In addition to tremendous risks inherent in the bestowal of wholesale authority to allocate goods, the bill contains several specific provisions which, in my opinion, go beyond the requirements of emergency legislation, provisions adopted without adequate hearings or thought that seem determined to live on long after the emergency has disappeared.

For example, **section 204(c)**, in attempting to encourage the use of mass transit in preference for private automobiles, puts the Federal Government into the business of subsidizing reduced fares for mass transit, a response to the energy crisis, that, once initiated, would predictably become institutionalized. No hearings were held on this measure, nor were alternative incentives considered.

I am also concerned over the sections of the bill that legislate exceptions to the National Environmental Policy Act. [**Sec. 206.**] I believe this approach to laws defining fundamental policy is unwise. If NEPA is judged to be inadequate to deal with short-term emergencies, the act itself should be amended to explicitly provide for such exceptions in an orderly fashion. To do otherwise simply invites a case-by-case attack on NEPA, with special interests seeking exemptions. Thus, rather than having a national environmental policy, we will have a policy which is applied only to the politically most vulnerable sectors of our society, and not to our society as a whole.

My own reading of the statute suggests that NEPA is sufficiently resilient to deal with the pending energy emergency. Federal agencies are required to file environmental impact statements prior to taking any action significantly affecting the environment "to the fullest extent possible."

Court decisions under NEPA have indicated that where a distinct emergency need exists, the mandate under section 102 can be fulfilled by expedited procedures tailored to the specific emergency measure.

Section 206 of the National Energy Emergency Act opens NEPA up again to a new series of decisions. It certainly will not be clear in some instances whether actions which seek exemption from NEPA can be identified as being taken under the National Energy Emergency Act.

But even if I am in error in my analysis, the existence of NEPA cannot impede the kind of immediate, emergency action that is the sole justification of S. 2589. I speak of the authority to allocate scarce commodities and to institute conservation measures—action that must be taken immediately if we are to conserve our energy sources. Surely we could have considered in separate legislation any needs for streamlining NEPA procedures.

Section 203 of the bill also implies a judgment as to which uses of fuels or energy are "nonessential," and singles out specific enterprises, such as recreational activities, as being nonessential. I believe this provision to be discriminatory, for it gives the President the authority to determine on a class-by-class basis which uses of energy ought to be restricted. The hardships of the energy crisis could thereby fall disproportionately upon certain categories of businesses without adequate legislative consideration or procedural safeguards. It would be far better to limit the energy conservation measures to those which would apply broadly, such as temperature restrictions or reductions in speed limits. I, of course, realize that even this type of use restriction will inevitably result in inequities.

Several amendments were adopted during the debate on this bill on the Senate floor which extend the reach of existing Federal authority for providing unemployment insurance [Sec. 401] and disaster assistance relief [Sec. 308] to any individual adversely affected by the energy crisis. Apart from the enormous bureaucratic problem of distinguishing between those who are adversely affected by the energy crisis and those who are adversely affected for other reasons, the Federal assistance provisions will not only become an enormous burden on the taxpayer, they will create precedents that will seek to have the Federal Government shield every one of its citizens against every conceivable hazard. This is something not even the United States can afford.

In short, the emergency energy bill grants excessive authority while failing to adopt measures best designed to bring the emergency to an early end.

Mr. BELLMON. Mr. President, while I recognize the emergency nature of the energy crisis currently facing the Nation, I cannot in good conscience support S. 2589 in its present form. The reason is simple. This bill attempts to deal superficially with the symptoms of a major problem which the Nation must someday face and solve. It does nothing to provide a solution to the basic problem. I refer to the unrealistic economic conditions facing the energy industry.

The energy crisis is no sudden development. This Nation has had a multitude of warnings from responsible and knowledgeable persons over the last decade that this condition was rapidly approaching. While demand for energy has been rising annually by some 600,000 barrels of crude oil per day the drilling of new wells has actually been declining each year until recently. The recent upturn is due to realistic, intrastate prices for gas and to the uncontrolled prices of new oil.

In the face of this decline, Congress added to the tax load of the petroleum industry. Also the administration has enforced harsh and unrealistic price controls. The result has been a low level of domestic oil activity causing a decline in petroleum reserves and a rapidly growing dependence upon imports from insecure sources.

Many Members of the Senate have warned repeatedly that this day would come. Numerous bills have been introduced by concerned Senators to help assure development of this Nation's abundant fossil fuel resources. I have introduced eight bills to help avoid this crisis. They are as follows:

In the 91st Congress: February 20, 1970, S. 3486—To establish a Commission on Oil Imports to impose quotas on petroleum and petroleum products.

In the 92d Congress:

February 25, 1971, Senate Joint Resolution 58—To establish a Joint Committee on Energy.

November 17, 1971, Senate Resolution 196—Commending the Federal Power Commission for permitting price increases.

March 20, 1972, S. 3376—To deregulate natural gas.

April 20, 1972, S. 3516—To establish a Joint Committee on Energy.

In the 93d Congress:

March 12, 1973, S. 1162—The National Energy Resources Development Act.

July 11, 1973, S. 2143—To exempt small natural gas producers from FPC price control.

September 11, 1973, S. 2400—To freeze 1974 vehicle emission standards until a complete review is conducted of standards and their impact upon U.S. economy and energy supplies.

Of these proposals, the National Energy Resources Development Act is the most comprehensive, containing the following provisions:

First, expands Joint Committee on Atomic Energy into Joint Committee on Energy;

Second, establishes the Office of Under Secretary of the Interior for Energy and Mineral Resources;

Third, establishes production payment and work performance guidelines for mineral leases;

Fourth, expands present lease offerings fivefold;

Fifth, establishes a Commission on Energy Utilization and Logistics;

Sixth, terminate FPC authority to regulate wellhead gas prices—new, immediately; old, over 3 years;

Seventh, provides for 1 percent increase in depletion allowance for each 5 percent of increased domestic production up to 10 percent increase in depletion;

Eighth, terminates foreign depletion allowance over a 3-year period;

Ninth, exempts energy companies from antitrust laws for purposes of conducting research; and

Tenth, authorizes the Secretary of Defense to purchase hydrocarbon products produced from coal or oil shale.

Unfortunately, none of these bills nor others with similar intent have ever seen the light of day. Rather they have languished in committee.

In the Interior appropriations bill, I was successful in obtaining an increase in research funds for secondary and tertiary recovery of oil and gas, but the Senate-House conferees reduced this amount which I am hopeful to restore in the supplemental appropriations legislation we are now considering.

Mr. President, there is no excuse for years of congressional and administration inaction. Nor is there any excuse now to bring before the Senate S. 2589 without including provisions aimed at permanently solving our energy problem. This bill will simply help preserve the status quo of energy starvation for the Nations. Its passage would only further the lethargy with which Congress has treated the Nation's energy malady. The time has come to face our energy problem squarely and begin working our way back to self-sufficiency.

Passage of this bill will delay action on legislation desperately needed to bring a lasting solution to the Nation's energy problem. It will postpone the deregulation of natural gas and crude oil prices, the gasification and liquefaction of coal, the development of oil and gas production on the Outer Continental Shelf, the production of known oil reserves through secondary and tertiary techniques and other essential basic steps to domestic energy self-sufficiency.

In an effort to strengthen S. 2589 so that the bill will not only deal with immediate energy emergencies at hand, but also to assure that this country will achieve a national self-sufficiency in energy, I have proposed a series of amendments.

One amendment would strengthen the language of **section 207** by adding that the President is directed to increase energy supplies, not

just for the duration of the emergency but also for the express purpose of achieving national self-sufficiency in energy.

I further propose to amend **section 207** by placing in the hands of the States the responsibility to determine which oilfields can in fact be produced at maximum efficiency rate, rather than as the bill now stipulates that it be carried out by the Secretary of the Interior.

Also, the requirement that certain oilfields be produced above the maximum efficient rate of production. I feel, is very unwise and would jeopardize the long-range recovery potential of these fields and, therefore, I move to strike that section from the bill.

Additional amendments call for the establishment of production payments and work performance guidelines for mineral leases. This would encourage greater exploration activities by deferring lease payments until production is achieved, but nevertheless requiring a certain work performance so that leased land cannot be left idle.

Another amendment provides exemption of energy companies from antitrust laws for purposes of conducting research. Another provides for a 1-percent increase in the depletion allowance for each 5 percent of increased domestic production up to 10-percent increase in depletion, and termination of the foreign depletion allowance over a 3-year period. Finally, an amendment I have offered deals with the President's exercise of authority with respect to his control of domestic crude oil. It would prohibit the establishment of a price level which is below the price level of comparable imported crude oil. It further directs that the President shall permit the passthrough of increases in crude oil costs incurred to the retail level.

Mr. President, I feel that the adoption of these measures would greatly strengthen S. 2589 and would help to achieve the desired goal of dealing with an immediate emergency and at the same time provide for the kinds of mechanisms that will help this Nation achieve the goal the President has set, of achieving national self-sufficiency in energy.

The provisions of S. 2589 combined with measures to correct the unjust and impractical economic conditions which have brought on the present crisis would have merit. As presently written, containing as it does only emergency measures, passage of S. 2589 will only relieve the present pressures and postpone the solution of the basic causes of the Nation's energy problem. When the next crisis comes it will likely find the Nation even less prepared.

Once the present emergency is past, as it may be when Middle East oil again begins to flow, Congress and the country may again lapse back into its old energy lethargy. I urge the Senate to act in concert to solve both the Nation's present and long-range energy problems by defeating this measure and acting upon proposed legislation to de-regulate natural gas and crude oil prices, assure production of oil and gas from coal and take other basic steps toward a lasting solution.

Mr. HATFIELD. Mr. President, I will not repeat my comments of last Thursday of why I oppose this bill. I only will note that we are abdicating our responsibilities to try and seek legislative solutions to our energy problems. When we in Congress get into a crunch, as we are, all the rhetoric about "congressional responsibility" seems to go out the window in our eagerness to pass the ball to the President. Con-

gress need not become an administrative agency, but it should set policies. As a member of this committee, I know just how sweeping the powers are that we grant under the bill to one man—the President—or his agents.

We, the Congress, should wrestle with these tough policy decisions. We should hold hearings to gather public input—another fault in this grant of power to bureaucrats who can alter drastically the way we work and live without public input.

I believe many of those supporting this bill will have occasion to review their position, and to wish we had kept this authority to make decisions here in Congress.

Mr. HATFIELD. Mr. President, I would like to point out again one aspect of the committee report accompanying this bill, and highlight its importance. During our markup, I raised the possibility that emergency powers granted to the Civil Aeronautics Board under the bill might be used by the airlines to try and abandon service to the smaller cities across the country.

I need not point out to my colleagues what I am sure is true in most of our States. The airlines want to abandon those unprofitable or less profitable routes and strictly fly the “gravy routes”—where they can be assured a peak load-factor. I also have heard that, in my State, some of their actions remind me of what the railroads did to almost try to lose passengers. I have heard of schedule problems, publicity lags, and a general lack of interest in serving the smaller towns of my State. Conservations I hear in the cloakrooms indicates many other States have this same problem.

I call attention, therefore, to the language we included in the report, and ask unanimous consent that the key sentence appear at this point in the Record:

The Committee intended by this provision to allow reasonable measures to be taken for emergency fuel conservation, but to preclude carriers from using the opportunity so presented to drop nonprofitable or less profitable routes, points served, or service areas, in a manner inconsistent with the public interest.

I also hope, Mr. President, that the CAB will monitor the airlines profit picture closely. If windfall profits develop because of the cut-back in the number of flights, fare reductions would appear to be in order. As I said at the markup, I would hope that if it does appear the airlines are making huge profits from the greatly increased load factors, I hope the CAB will initiate proceedings to lower the fares. I do recognize, however, the airlines may well be paying more for fuel, and this may offset any increased revenues.

RECREATIONAL USE OF ENERGY

Mr. President, **section 203(b)(2)** says the President must come up with measures to reduce energy consumption that shall include restrictions on such “non-essential” uses as recreational activities. I would like to point out that recreation has generally been considered a basic public service, and as such it is covered elsewhere in **section 203**. Commercial recreational facilities need not be singled out, either, because they would also fall elsewhere in **section 203** as “commercial establishments.”

Besides this, however, I would like to ask my colleagues just what is a “recreational activity?” I submit it is a park playground for inner-city youth; it is a community and family recreation center; it is a

publicly or privately sponsored program for the elderly or the handicapped; it is a youth or teen center; it is a library. It is often the only program or facility capable of providing meaningful activity for many citizens with more discretionary time on their hands than ever before. It can be the only program or facility which provides meaningful outlets for young people. For the elderly, it can be the difference between involvement and companionship and isolation and loneliness.

And where will these people go? They can go to the bars and taverns which may not be affected. They can hang around the drive-ins and hamburger stands which may not be affected. They can go to the late-hour stores. They can go to countless less essential establishments than recreational facilities.

We are talking about reducing work hours, redistributing schools hours, and rationing gasoline. People are not only going to have more discretionary time but will also be confined to services and activities close to home. Local recreational outlets and facilities will be expected to meet the increased demand. And yet **section 203** singles them out as "nonessential."

All elements of both the public and private sector will be called upon to make sacrifices. This should probably include recreation; but recreation should not be singled out as a "nonessential use."

Mr. JACKSON. Mr. President, first, I should like to thank the Senator for raising this issue, one that should be clarified. I do not interpret **section 203** to single out all recreation as nonessential. In my view the intent is to direct that such recreational activities as may be deemed nonessential by State and local governments be curtailed. This curtailment is one part of their program to meet the goals for reduction in energy consumption set forth in the bill.

The distinguished Senator from Oregon has set forth eloquently the need for public recreation, I concur in the observations he has made. I would suggest that, as provided for in the bill, the final determination on what curtailments of energy be made in the area of recreation is one which can best be made by the individual community.

THE MUSKIE AMENDMENT

Mr. CRANSTON. Mr. President, I would like to ask the distinguished Senator from Maine (Mr. Muskie) if he would agree that his amendment from the Public Works Committee, adopted last Thursday, was intended to insure that any conversion to coal or other fuels authorized or permitted by this act shall be permitted only to the extent necessary to reduce or eliminate the emergency declared by this act. [Title IV.]

Mr. MUSKIE. Yes.

Mr. JACKSON. I concur in that understanding.

ADVERTISING

Mr. HARRY F. BYRD, JR. Mr. President, **subsection 203(b)(2)** of the pending legislation—on page 17, lines 13 and 14—states that one of the measures which the President must include in the rationing and conservation program is:

A ban on all advertising encouraging increased energy consumption. . . .

I believe this language is subject to a variety of interpretations.

In some quarters—specifically the Virginia Travel Council—the fear has been expressed that it could result in a ban of travel advertising.

I wonder if the chairman would give the Senate the benefit of his interpretation of the intent of this language.

Mr. JACKSON. I agree with the Senator that it is important to be specific. At the same time, it is important to remember that we are indeed faced with a serious emergency and are attempting in S. 2589 to provide the President with the authority needed to issue more precisely drawn programs, accompanied by carefully and narrowly drawn regulations and guidelines, aimed at curtailing wasteful and nonessential uses of fuel and energy. The committee intends that the burdens of curtailing energy use be equitably distributed among all sectors of the economy and the population. This means that plans called for in S. 2589 must embody as many possible remedies for our energy and fuel shortage as possible.

A factor in the development of this emergency has been advertisements promoting wasteful and nonessential energy consumption. The committee has heard testimony that some utilities and other energy producers have in the past engaged in widespread advertising designed for no other purpose but to increase consumption of energy and fuel. This is the type of advertising the committee thinks should cease.

Travel advertisement is not directed toward an effort to create in the consumer a desire to waste energy. It is a legitimate sales effort by merchants to sell their services. Again, I feel that it falls into the right of a merchant to communicate in a responsible way with his customers and potential customers. I see nothing in such advertisement to incite wasteful consumption of energy.

THE IMPORTANCE OF SUBSECTION 202(C)

Mr. CHURCH. Mr. President, I call to the attention to the Senate an important subsection of S. 2589, the energy emergency bill. **Subsection 202(c)** terminates the declared nationwide energy emergency and the authority granted by the act 1 year after its date of enactment. The subsection also requires an interim report by the President to Congress 6 months after implementation of the act. The provision reads as follows:

The declared nationwide energy emergency and the authority granted by this Act shall terminate one year after the date of enactment of this Act. Six months after the date of enactment of this Act, the President shall submit to the Congress an interim report on the implementation of the Act, together with such recommendations for amending or extending the Act as he deems appropriate.

My intention, as sponsor of this provision, and the intention of the committee in adopting it, was to avoid an open-ended delegation of the authority contained in the bill, and of the actions taken pursuant thereto.

If enacted into law, this subsection will alter an old congressional habit of giving extraordinary power to Presidents to meet particular crises, either foreign or domestic, without reserving the means to retrieve the power. Especially since 1933, it has been Congress habit to delegate extensive emergency authority and not to set a terminating date. Consequently, the United States now has on the books at least 470 significant emergency powers statutes without time limitations.

These statutes delegate to the President extensive discretionary powers, ordinarily exercised by the Congress, which affect the lives of American citizens in a host of all-encompassing ways. This vast range of powers, taken together, confer enough authority to rule this country without reference to normal constitutional processes. These laws make no provision for congressional oversight nor do they reserve to Congress a means for terminating the "temporary" emergencies which trigger them into use.

These emergency powers statutes are invoked by a Presidential declaration of a state of national emergency. The United States has been in such a state of declared national emergency since March 9, 1933. In fact, there are now in effect four Presidentially proclaimed states of national emergency. In addition to the national emergency declared by President Roosevelt, there is also by the national emergency proclaimed by President Truman on December 16, 1950, during the Korean conflict, plus the states of national emergency declared by President Nixon on March 23, 1970, and August 15, 1971. When the energy emergency before us, declared by Congress, becomes law, it will be a fifth emergency, added on top of the four now in existence.

Along with my distinguished colleague from Maryland (Mr. Mathias), pursuant to Senate Resolution 9, I cochair the Special Senate Committee on the Termination of the National Emergency which has been studying and investigating the states of national emergency in which we now find ourselves and the plethora of emergency powers that Congress has passed over the years.

The Special Committee on the Termination of the National Emergency was created to examine the consequences of terminating the declared states of national emergency that now prevail; to recommend what steps the Congress should take to insure that the termination can be accomplished without adverse effect upon the necessary tasks of governing; and, also, to recommend ways in which the United States can meet future emergency situations with speed and effectiveness but without relinquishment of congressional oversight and control.

In accordance with this mandate, the special committee—in conjunction with the executive branch, expert constitutional authorities, as well as former high officials of this Government—is now engaged in a detailed study to determine the most reasonable ways to restore normalcy to the operations of our Government.

Our work to date has influenced the inclusion of subsection 202(c) in the energy emergency bill. If it becomes law, I hope it means that Congress has kicked at least its bad habit of delegating without retrieving. I hope the precedent will help turn the tide back toward the legislative branch where it belongs. For, unless Congress takes such steps to strengthen its capacity to make the laws through the representative political process as the Constitution intended, then the unmistakable flow toward one-man government will continue.

Mr. President, I ask unanimous consent that two essays prepared by the able staff of the Special Committee on the Termination of the National Emergency be inserted in the Record. These essays are part of a publication put out by the special committee earlier this autumn, entitled "Emergency Powers Statutes," a compilation of provisions of Federal laws delegating to the Executive extraordinary authority in time of national emergency.

There being no objection, the essays were ordered to be printed in the Record, as follows:

ESSAYS ON EMERGENCY POWERS

A—A BRIEF HISTORICAL SKETCH OF THE ORIGINS OF EMERGENCY POWERS NOW IN FORCE

A majority of the people of the United States have lived all of their lives under emergency rule. For 40 years, freedoms and governmental procedures guaranteed by the Constitution have, in varying degrees, been abridged by laws brought into force by states of national emergency. The problem of how a constitutional democracy reacts to great crises, however, far antedates the Great Depression. As a philosophical issue, its origins reach back to the Greek city-states and the Roman Republic. And, in the United States, actions taken by the Government in times of great crises have—from, at least, the Civil War—in important ways shaped the present phenomenon of a permanent state of national emergency.

American political theory of emergency government was derived and enlarged from John Locke, the English political-philosopher whose thought influenced the authors of the Constitution. Locke argued that the threat of national crisis—unforeseen, sudden, and potentially catastrophe—required the creation of broad executive emergency powers to be exercised by the Chief Executive in situations where the legislative authority has not provided a means of procedure of remedy. Referring to emergency power in the 14th chapter of his *Second Treatise on Civil Government* as “prerogative,” Locke suggested that it:

“... should be left to the discretion of him that has the executive power . . . since in some governments the lawmaking power is not always in being and is usually too numerous, and so too slow for the dispatch requisite to executions and because, also it is impossible to foresee and so by law to provide for all accidents and necessities that may concern the public, or make such laws as will do no harm, if they are executed with an inflexible rigour on all occasions and upon all persons that may come in their way, therefore there is a latitude left to the executive power to do many things of choice which the laws do not prescribe.”

To what extent the Founding Fathers adhered to this view of the executive role in emergencies is a much disputed issue, whatever their conceptions of this role, its development in practice has been based largely on the manner in which individual President's have viewed their office and its functions. Presidents Theodore Roosevelt and William Howard Taft argue the proper role of the President and, perhaps, their debate best expounds diametrically opposed philosophies of the presidency. In his *Autobiography*, Roosevelt asserted his “stewardship theory.”

“My view was that every executive officer . . . was a steward of the people bound actively and affirmatively to do all he could for the people and not to content himself with the negative merit of keeping his talents undamaged in a napkin . . . My belief was that is was not only [the President's] right but his duty to do anything that the needs of the Nation demanded unless such action was forbidden by the Constitution or by the laws. Under this interpretation of executive power I did and caused to be done many things not previously done by the President and the heads of departments. I did not usurp power but I did greatly broaden the use of executive power. In other words, I acted for the common well being of all our people whenever and whatever measure was necessary, unless prevented by direct constitutional or legislative prohibition.”

Roosevelt compared this principle of “stewardship” to what he called the Jackson-Lincoln theory, and contrasted it to the theory ascribed to William Howard Taft.

Roosevelt's ideas on the ambit of presidential authority and responsibility were vigorously disputed by Taft. In lectures on the presidency—delivered at Columbia University in 1915–1916—Taft responded that: “. . . the wide field of action that this would give to the Executive one can hardly limit. A President can exercise no power which cannot fairly and reasonably be traced to some specific grant of power.” And he cautioned that: “. . . such specific grants must be either in the Federal Constitution, or in any Act of Congress passed in pursuance thereof. There is no undefined residuum of power which he can exercise because it seems to him to be in the public interest.”

In recent years, most scholars have interpreted the Roosevelt-Taft dispute in Roosevelt's favor. In the prevailing academic view, Roosevelt is described as “ac-

tive," "expansionist" and "strong." The historical reality, in fact, does not afford such a sharp distinction either between the actions of these two Presidents, or between their analysis of the problem of emergency powers. Taft, in his concluding remarks to his Columbia lectures, said: "Executive power is limited, so far as it is possible to limit such a power consistent with that discretion and promptness of action that are essential to preserve the interests of the public in times of emergency or legislative neglect or inaction." Thus, even Taft was disposed to employ emergency power when the need arose, but, he did not wish to go beyond his own narrower, conservative conception of what was meant by constitutional and legal bounds. Thus, the dispute was over where those bounds lay, rather than the nature of the office itself.

Taft's successor, Woodrow Wilson, was no less zealous in observing what he thought the Constitution demanded. Faced with the exigencies of World War I, Wilson found it necessary to expand executive emergency power enormously. In many respects, this expansion of powers in wartime was based on precedents set by Lincoln decades earlier. Unlike Lincoln, however, Wilson relied heavily on Congress for official delegations of authority no matter how broadly these might be.

Wilson's exercise of power in the First World War provided a model for future Presidents and their advisors. During the preparedness period of 1915-1916, the submarine crisis in the opening months of 1917, and the period of direct involvement of U.S. armed forces from April 1917 to November 1918, Wilson utilized powers as sweeping as Lincoln's. Because governmental agencies were more highly organized and their jurisdictions wider, presidential powers were considerably more effective than ever before. Yet, perhaps, because of Wilson's scrupulous attention to obtaining prior congressional concurrence, there was only one significant congressional challenge to Wilson's wartime measures.

That challenge came in February-March 1917, following the severance of diplomatic relations with Germany. A group of Senators successfully filibustered a bill authorizing the arming of American merchant ships. In response—records American historian Frank Freidel in his book *Roosevelt: the Apprenticeship*—Assistant Secretary of the Navy Franklin D. Roosevelt found an old statute under which the President could proceed without fresh authorization from Congress, Roosevelt, impatient for action, was irritated because Wilson waited a few days before implementing the statute.

Lincoln had drawn most heavily upon his power as Commander-in-Chief; Wilson exercised emergency power on the basis of old statutes and sweeping new legislation—thus drawing on congressional delegation as a source of authority. The most significant Wilsonian innovations were economic, including a wide array of defense and war agencies, modeled to some extent upon British wartime precedents. In August 1916 just prior to United States entry into the war, Congress at Wilson's behest established a Council of National Defense—primarily advisory. In 1917, a War Industries Board, also relatively weak, began operating. The ineffectiveness of the economic mobilization led Republicans in Congress—in the winter of 1917-1918—to demand a coalition War Cabinet similar to that in England. Wilson forestalled Congress by proposing legislation delegating him almost total economic power and, even before legislative approval, authorized the War Industries Board to exercise extensive powers. Subsequently Congress enacted Wilson's measure, the Overman Act, in April 1918. Other legislation extended the economic authority of the Government in numerous directions.

Following the Allied victory, Wilson relinquished his wartime authority and asked Congress to repeal the emergency statutes, enacted to fight more effectively the war. Only a food-control measure and the 1917 Trading With the Enemy Act were retained. This procedure of terminating emergency powers when the particular emergency itself has, in fact, ended has not been consistently followed by his successors.

The next major development in the use of executive emergency powers came under Franklin D. Roosevelt. The Great Depression had already overtaken the country by the time of Roosevelt's inauguration and confronted him with a totally different crisis. This emergency, unlike those of the past, presented a nonmilitary threat. The Roosevelt administration, however, conceived the economic crisis to be a calamity equally as great as a war and employed the metaphor of war to emphasize the depression's severity. In his inaugural address, Roosevelt said: "I shall ask the Congress for the one remaining instrument to meet the crisis—broad executive power to wage a war against the emergency, as great as the power that would be given to me if we were in fact invaded by a foreign foe."

Many of the members of the Roosevelt administration, including F.D.R. himself, were veterans of the economic mobilization of World War I and drew upon their experiences to combat the new situation. The first New Deal agencies, indeed, bore strong resemblance to wartime agencies and many had the term "emergency" in their titles—such as the Federal Emergency Relief Administration and the National Emergency Council.

In his first important official act, Roosevelt proclaimed a National Bank Holiday on the basis of the 1917 Trading With the Enemy Act—itself a wartime delegation of power. New Deal historian William E. Leuchtenburg writes:

"When he sent his banking bill to Congress, the House received it with much the same ardor as it had greeted Woodrow Wilson's war legislation. Speaker Rainey said the situation reminded him of the late war when "on both sides of this Chamber the great war measures suggested by the administration were supported with practical unanimity. . . . Today we are engaged in another war, more serious even in its character and presenting greater dangers to the Republic." After only 38 minutes debate, the House passed the administration's banking bill, sight unseen."

The Trading With the Enemy Act had, however, been specifically designed by its originators to meet only *wartime* exigencies. By employing it to meet the demands of the depression, Roosevelt greatly extended the concept of "emergencies" to which expansion of executive powers might be applied. And in so doing, he established a pattern that was followed frequently: In time of crisis the President should utilize any statutory authority readily at hand, regardless of its original purposes, with the firm expectation of *ex post facto* congressional concurrence.

Beginning with F.D.R., then, extensive use of delegated powers exercised under an aura of crisis has become a dominant aspect of the presidency. Concomitant with this development has been a demeaning of the significance of "emergency." It became a term used to evoke public and congressional approbation, often bearing little actual relation to events. Roosevelt brain-truster, Rexford G. Tugwell, has described the manner in which Roosevelt used declarations of different degrees of emergency:

"The 'limited emergency' was a creature of Roosevelt's imagination, used to make it seem that he was doing less than he was. He did not want to create any more furor than was necessary. The qualifying adjective had no limiting force. It was purely for public effect. But the finding that an emergency existed opened a whole armory of powers to the Commander-in-Chief, far more than Wilson had had."

Roosevelt and his successor, Harry S. Truman, invoked formal states of emergency to justify extensive delegations of authority during actual times of war. The Korean war, however, by the fact of its never having been officially declared a "war" as such by Congress, further diluted the concept of what constituted circumstances sufficiently critical to warrant the delegation of extraordinary authority to the President.

A the end of the Korean war, moreover, the official state of emergency was not terminated. It is not yet terminated. This may be primarily attributed to the continuance of the Cold War atmosphere which, until recent years, made the imminent threat of hostilities an accepted fact of everyday life, with "emergency" the normal state of affairs. In this, what is for all practical purposes, permanent state of emergency, Presidents have exercised numerous powers—most notably under the Trading With the Enemy Act—legitimated by that ongoing state of national emergency. Hundreds of others have lain fallow, there to be exercised at any time, requiring only an order from the President.

Besides the 1933 and Korean war emergencies, two other states of declared national emergency remain in existence. On March 23, 1970, confronted by a strike of Postal Service employees, President Nixon declared a national emergency. The following year, on August 15, 1971, Nixon proclaimed another emergency, under which he imposed stringent import controls in order to meet an international monetary crisis. Because of its general language, however, that proclamation could serve as sufficient authority to use a substantial proportion of all the emergency statutes now on the books.

Over the course of at least the last 40 years, then, Presidents have had available an enormous—seemingly expanding and neverending—range of emergency powers. Indeed, at their fullest extent and during the height of a crisis, these "prerogative" powers appear to be virtually unlimited, confirming Locke's perceptions. Because Congress and the public are unaware of the extent of emer-

gency powers, there has never been any notable congressional or public objection made to this state of affairs. Nor have the courts imposed significant limitation.

During the New Deal, the Supreme Court initially struck down much of Roosevelt's emergency economic legislation (*Schechter v. United States*, 295 U.S. 495). However, political pressures, a change in personnel, and presidential threats of court-packing, soon altered this course of decisions (*NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1). Since 1937, the Court has been extremely reluctant to invalidate any congressional delegation of economic powers to the President. It appears that this will not change in the foreseeable future.

In a significant case directly confronting the issue of wartime emergency powers, *Youngstown Sheet & Tube Co. v. Sawyer* (343 U.S. 579), the Court refused to allow the President to rely upon implied constitutional powers during a crisis. The action at issue involved presidential seizure of steel plants in a manner apparently directly at odds with congressional policy. Justice Black's plurality opinion specifically acknowledges that if Congress delegates powers to the President for use during an emergency, those powers are absolutely valid within constitutional restraints on Congress' own power to do so. Concurring opinions appear to agree on this point. It should be noted, therefore, that *all Statutes* in this compilation are precisely these kinds of specific congressional delegations of power.

The 2,000-year-old problem of how a legislative body in a democratic republic may extend extraordinary powers for use by the executive during times of great crisis and dire emergency—but do so in ways assuring both that such necessary powers will be terminated immediately when the emergency has ended and that normal processes will be resumed—has not yet been resolved in this country. Too few are aware of the existence of emergency powers and their extent, and the problem has never been squarely faced.

B—SUMMARY VIEWS OF THE PRESENT STATUS OF EMERGENCY POWERS STATUTES

A review of the laws passed since the first state of national emergency was declared in 1933, reveals a consistent pattern of lawmaking. It is a pattern showing that the Congress, through its own actions, transferred awesome magnitudes of power to the executive ostensibly to meet the problems of governing effectively in times of great crisis. Since 1933, Congress has passed or recodified over 470 significant statutes delegating to the President powers that had been the prerogative and responsibility of the Congress since the beginning of the Republic. No charge can be sustained that the Executive branch has usurped powers belonging to the Legislative branch; on the contrary, the transfer of power has been in accord with due process of normal legislative procedures.

It is fortunate that at this time that, when the fears and tensions of the cold war are giving way to relative peace and détente is now national policy, Congress can assess the nature, quality, and effect of what has become known as emergency powers legislation. Emergency powers make up a relatively small but important body of statutes—some 470 significant provisions of law out of the total of tens of thousands that have been passed or recodified since 1933. But emergency powers laws are of such significance to civil liberties, to the operation of domestic and foreign commerce, and the general functioning of the U.S. Government, that, in microcosm, they reflect dominant trends in the political, economic, and judicial life in the United States.

A number of conclusions can be drawn from the Special Committee's study and analysis of emergency powers laws now in effect. Congress has in most important respects, except for the final action of floor debate and the formal passage of bills, permitted the Executive branch to draft and in large measure "make the laws." This has occurred despite the constitutional responsibility conferred on Congress by Article I, Section 8 of the Constitution which states that it is Congress that "makes all Laws . . ."

Most of the statutes pertaining to emergency powers were passed in times of extreme crisis. Bills drafted in the Executive branch were sent to Congress by the President and, in the case of the most significant laws that are on the books, were approved with only the most perfunctory committee review and virtually no consideration of their effect on civil liberties or the delicate structure of the U.S. Government of divided powers. For example, the economic measures that were passed in 1933 pursuant to the proclamation of March 5, 1933, by President Roosevelt, asserting that a state of national emergency now existed, were enacted in the most turbulent circumstances. There was a total of only 8 hours of debate

in both houses. There were no committee reports; indeed, only one copy of the bill was available on the floor.

This pattern of hasty and inadequate consideration was repeated during World War II when another group of laws with vitally significant and far reaching implications was passed. It was repeated during the Korean war and, again, in most recent memory, during the debate on the Tonkin Gulf Resolution passed on August 6, 1964.

On occasion, legislative history shows that during the limited debates that did take place, a few, but very few, objections were raised by Senators and Congressmen that expressed serious concerns about the lack of provision for congressional oversight. Their speeches raised great doubts about the wisdom of giving such open-ended authority to the President, with no practical procedural means to withdraw that authority once the time of emergency had passed.

For example, one of the very first provisions passed in 1933 was the Emergency Banking Act based upon Section 5(b) of the Trading With the Enemy Act of 1917. The provisions gave to President Roosevelt, with the full approval of the Congress, the authority to control major aspects of the economy, an authority which had formerly been reserved to the Congress. A portion of that provision, still in force, is quoted here to illustrate the kind of open-ended authority Congress has given to the President during the past 40 years:

"(b) (1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

"(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

"(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest.

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

"(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rules, regulation, instruction, or direction issued hereunder shall be to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder."

To cite two further examples:

In the context of the war powers issue and the long debate of the past decade over national commitments, 10 U.S.C. 712 is of importance:

"10 U.S.C. 712. Foreign governments: detail to assist.

"(a) Upon the application of the country concerned, the President, whenever he considers it in the public interest, may detail members of the Army, Navy, Air Forces, and Marine Corps to assist in military matters—

"(1) any republic in North America, Central America, or South America ;

"(2) the Republic of Cuba, Haiti, or Santo Domingo and

"(3) during a war or a declared national emergency, any other country that he considers it advisable to assist in the interest of national defense.

"(b) Subject to the prior approval of the Secretary of the military department concerned, a member detailed under this section may accept any office from the country to which he is detailed. He is entitled to credit for all service while so detailed, as if serving with the armed forces of the United States. Arrangements may be made by the President, with countries to which such members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions."

The Defense Department, in answer to inquiries by the Special Committee concerning this provision, has stated that it has only been used with regard to Latin America, Liberia and Iran, and interprets its applicability as being limited to non-combatant advisers. However, the language of Section 712 is wide open to other interpretations. It could be construed as a way of extending considerable military assistance to any foreign country. Since Congress has delegated this power, arguments could be made against the need for further congressional concurrence in a time of national emergency.

The repeal of almost all of the Emergency Detention Act of 1950 was a constructive and necessary step, but the following provision remains:

"18 U.S.C. 1383. Restrictions in military areas and zones.

"Whoever, contrary to the restrictions applicable thereto, enters, remains in, leaves, or commits any act in any military area or military zone prescribed under the authority of an Executive order of the President, by the Secretary of the Army, or by any military commander designated by the Secretary of the Army, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both."

18 U.S.C. 1383 does not appear on its face to be an emergency power. It was used as the basis for internment of Japanese-Americans in World War II. Although it seems to be cast as a permanent power, the legislative history of the section shows that the statute was intended as a World War II emergency power only, and was not to apply in "normal" peacetime circumstances. Two years ago, the Emergency Detention Act was repealed, yet 18 U.S.C. 1383 has almost the same effect.

Another pertinent question among many, that the Special Committee's work has revealed, concerns the statutory authority for domestic surveillance by the FBI. According to some experts, the authority for domestic surveillance appears to be based upon an Executive Order issued by President Roosevelt during an emergency period. If it is correct that no firm statutory authority exists, then it is reasonable to suggest that the appropriate committees enact proper statutory authority for the FBI with adequate provision for oversight by Congress.

What these examples suggest and what the magnitude of emergency powers affirm is that most of these laws do not provide for congressional oversight or termination. There are two reasons which can be adduced as to why this is so. First, few, if any, foresaw that the temporary states of emergency declared in 1933, 1939, 1941, 1950, 1970, and 1971 would become what are now regarded collectively as virtually permanent states of emergency (the 1939 and 1941 emergencies were terminated in 1952). Forty years can, in no way, be defined as a temporary emergency. Second, the various administrations who drafted these laws for a variety of reasons were understandably not concerned about providing for congressional review, oversight, or termination of these delegated powers which gave the President enormous powers and flexibility to use those powers.

The intense anxiety and sense of crisis was contained in the rhetoric of Truman's 1950 proclamation:

"Whereas recent events in Korea and elsewhere constitute a grave threat to the peace of the world and imperil the efforts of this country and those of the United Nations to prevent aggression and armed conflict ; and

"Whereas world conquest by communist imperialism is the goal of the forces of aggression that have been loosed upon the world ; and

"Whereas, if the goal of communist imperialism were to be achieved, the people of this country would no longer enjoy the full and rich life they have with God's help built for themselves and their children ; they would no longer enjoy the

blessings of the freedom of worshipping as they severally choose, the freedom of reading and listening to what they choose, the right of free speech, including the right to criticize their Government, the right to choose those who conduct their Government, the right to engage freely in collective bargaining, the right to engage freely in their own business enterprises, and the many other freedoms and rights which are a part of our way of life; and

"Whereas, the increasing menace of the forces of communist aggression requires that the national defense of the United States be strengthened as speedily as possible:

"Now, therefore, I, Harry S. Truman, President of the United States of America, do proclaim the existence of a national emergency, which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible to the end that we may be able to repel any and all threats against our national security and to fulfill our responsibilities in the efforts being made through the United Nations and otherwise to bring about lasting peace.

"I summon all citizens to make a united effort for the security and well-being of our beloved country and to place its needs foremost in thought and action that the full moral and material strength of the Nation may be readied for the dangers which threaten us.

"I summon our farmers, our workers in industry, and our businessmen to make a might production effort to meet the defense requirements of the Nation and to this end to eliminate all waste and inefficiency and to subordinate all lesser interests to the common good.

"I summon every person and every community to make, with a spirit of neighborliness, whatever sacrifices are necessary for the welfare of the Nation.

"I summon all State and local leaders and officials to cooperate fully with the military and civilian defense agencies of the United States in the national defense program.

"I summon all citizens to be loyal to the principles upon which our Nation is founded, to keep faith with our friends and allies, and to be firm in our devotion to the peaceful purposes for which the United Nations was founded.

"I am confident that we will meet the dangers that confront us with courage and determination, strong in the faith that we can thereby "secure the Blessings of Liberty to ourselves and our Posterity."

"In witness whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

"Done at the City of Washington this 16th day of December (10:20 a.m.) in the year of our Lord nineteen hundred and fifty, and of the Independence of the United States of America the one hundred and seventy-fifth.

"HARRY S. TRUMAN.

"[Seal]

"By the President:

"DEAN ACHESON,
"Secretary of State."

The heightened sense of crisis of the cold war so evident in Truman's proclamation has fortunately eased. The legislative shortcomings contained in this body of laws can be corrected on the basis of rational study and inquiry.

In the view of the Special Committee, an emergency does not now exist. Congress, therefore, should act in the near future to terminate officially the states of national emergency now in effect.

At the same time, the Special Committee is of the view that it is essential to provide the means for the Executive to act effectively in an emergency. It is reasonable to have a body of laws in readiness to delegate to the President extraordinary powers to use in times of real national emergency. The portion of the concurring opinion given by Justice Jackson in the *Youngstown Steel* case with regard to emergency powers provides sound and pertinent guidelines for the maintenance of such a body of emergency laws kept in readiness to be used in times of extreme crisis. Justice Jackson, supporting the majority opinion that the "President's power must stem either from an act of Congress or from the Constitution itself" wrote:

"The appeal, however, that we declare the existence of inherent powers *ex necessitate* to meet an emergency asks us to do what many think would be wise although it is something the forefathers omitted. They knew what emergencies were, knew the pressures they engender for authoritative action, knew, too, how they afford a ready pretext for usurpation. We may also suspect that they sus-

pected that emergency powers would tend to kindle emergencies. Aside from suspension of the privilege of the writ of habeas corpus in time of rebellion or invasion, when the public safety may require it, they made no express provision for exercise of extraordinary authority because of a crisis. I do not think we rightfully may so amend their work, and, if we could, I am not convinced it would be wise to do so, although many modern nations have forthrightly recognized that war and economic crises may upset the normal balance between liberty and authority. Their experience with emergency powers may not be irrelevant to the argument here that we should say that the Executive, of his own violation, can invest himself with undefined emergency powers.

"Germany, after the First World War, framed the Weimar Constitution, designed to secure her liberties in the Western tradition. However, the President of the Republic, without concurrence of the Reichstag, was empowered temporarily to suspend any or all individual rights if public safety and order were seriously disturbed or endangered. This proved a temptation to every government, whatever its shade of opinion, and in 13 years suspension of rights was invoked on more than 250 occasions. Finally, Hitler persuaded President von Hindenburg to suspend all such rights, and they were never restored.

"The French Republic provided for a very different kind of emergency government known as the "state of seige." It differed from the German emergency dictatorship particularly in that emergency powers could not be assumed at will by the Executive but could only be granted as a parliamentary measure. And it did not, as in Germany, result in a suspension or abrogation of law but was a legal institution governed by special legal rules and terminable by parliamentary authority.

"Great Britain also has fought both World Wars under a sort of temporary dictatorship created by legislation. As Parliament is not bound by written constitutional limitations, it established a crises government simply by delegation to its Ministers of a larger measure than usual of its own unlimited power, which is exercised under its supervision by Ministers whom it may dismiss. This has been called the "high-water mark in the voluntary surrender of liberty," but as Churchill put it, "Parliament stands custodian of these surrendered liberties, and its most sacred duty will be to restore them in their fullness when victory has crowned our exertions and our perseverance." Thus, parliamentary controls made emergency powers compatible with freedom.

"This contemporary foreign experience may be inconclusive as to the wisdom of lodging emergency powers somewhere in a modern government. But it suggests that emergency powers are consistent with free government only when their control is lodged elsewhere than in the Executive who exercises them. That is the safeguard that would be nullified by our adoption of the "inherent powers" formula. Nothing in my experience convinces me that such risks are warranted by any real necessity, although such powers would, of course, be an executive convenience.

"In the practical working of our Government we already have evolved a technique within the framework of the Constitution by which normal executive powers may be considerably expanded to meet an emergency. Congress may and has granted extraordinary authorities which lie dormant in normal times but may be called into play by the Executive in war or upon proclamation of a national emergency. In 1939, upon congressional request, the Attorney General listed ninety-nine such separate statutory grants by Congress of emergency or wartime executive powers. They were invoked from time to time as need appeared. Under this procedure we retain Government by law—special, temporary law, perhaps, but law nonetheless. The public may know the extent and limitations of the powers that can be asserted, and persons affected may be informed from the statute of their rights and duties.

"In view of the ease, expedition and safety with which Congress can grant and has granted large emergency powers, certainly ample to embrace this crisis, I am quite unimpressed with the argument that we should affirm possession of them without statute. Such power either has no beginning or it has no end. If it exists, it need submit to no legal restraint. I am not alarmed that it would plunge us straightway into dictatorship, but it is at least a step in that wrong direction.

* * * * *

"But I have no illusion that any decision by this Court can keep power in the hands of Congress if it is not wise and timely in meeting its problems. A crisis that challenges the President equally, or perhaps primarily, challenges Congress.

If not good law, there was worldly wisdom in the maxim attributed to Napoleon that 'The tools belong to the man who can use them.' We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers.

"The essence of our free Government is 'leave to live by no man's leave, underneath the law'—to be governed by those impersonal forces which we call law. Our Government is fashioned to fulfill this concept so far as humanly possible. The Executive, except for recommendation and veto, has no legislative power. The executive action we have here originates in the individual will of the President and represents an exercise of authority without law. No one, perhaps not even the President, knows the limits of the power he may seek to exert in this instance and the parties affected cannot learn the limit of their rights. We do not know today what powers over labor or property would be claimed to flow from Government possession if we should legalize it, what rights to compensation would be claimed or recognized or on what contingency it would end. With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations.

"Such institutions may be destined to pass away. But it is the duty of the Court to be last, not first, to give them up."

With these guidelines and against the background of experience of the last 40 years, the task that remains for the Special Committee is to determine—in close cooperation with all the Standing Committees of the Senate and all Departments, Commissions, and Agencies of the Executive branch—which of the laws now in force might be of use in a future emergency. Most important, a legislative formula needs to be devised which will provide a regular and consistent procedure by which any emergency provisions are called into force. It will also be necessary to establish a means by which Congress can exercise effective emergency as well as providing a regular and consistent procedure for the termination of such grants of authority.

SACRIFICE

MR. MONTROYA. Mr. President, the philosophy behind S. 2589 is a philosophy of sacrifice, and the sooner all our people realize that, the better it will be.

This bill means that all of us, and I want to emphasize that, shall have to begin immediately using less electricity, driving fewer miles and wearing warmer clothes. It means that we are going to have to give up the luxury of going to a supermarket at any hour of the night or day in favor of going during the day. It means that we should drive more slowly when we drive and that we should consider measures, such as those proposed by the New Mexico State Board of Education, to lengthen Christmas vacations and extend the school year. This bill, in short, says to the American people that there are going to have to be changes made in everyone's way of life. We are not going to get by this crisis if everyone continues to use energy as he has in the past. That must be understood, and that is what his bill says.

With each passing day, the specter of the energy shortage grows larger and larger. At the end of the summer it was estimated that our fuel shortfall for the year would range between 10,000 and 250,000 barrels per day. On October 12, the estimate of our fuel shortfall was 1.2 million barrels per day. On October 30 it was 2 to 2.5 million barrels per day. Now there are estimates of shortages of 6 million barrels per day. It seems that the earlier estimates were too small because they failed to take into consideration the increase in demand which has taken place along with the decrease in supply. So the crisis is very real and no one need believe any longer that it is just a hoax perpetrated by the oil companies in an effort to raise prices.

The bill before us represents one side of a two-sided approach to the energy crisis. This bill is concerned with the demand side. It is an at-

tempt to restrain demand. Several Senators have pointed out that this bill is not the whole solution. They say that more needs to be done to increase supply, and that is correct. But we do not need to fool ourselves. There is not going to be any quick increase in supply. The most recent "Weekly Energy Report" points out that the best that can be hoped for in terms of increased supply is an increase of 500,000 barrels a day from the oil fields in my part of the country—New Mexico, Oklahoma, Texas, Louisiana. One can add to that 160,000 barrels per day from the Elk Hill Naval Reserve, but that is only 66,000 barrels total. That is only 10 to 20 percent of our shortages, depending on whose estimates you believe as to the size of the shortage. So this bill, in requiring—and it does require—a careful husbanding of our fuel, is a good bill and a needed bill.

With regard to the other side of the problem, increasing the supply of energy, the Congress, and especially the Senate Interior Committee, has been doing an admirable job. The Interior Committee has under consideration S. 1283, a bill establishing a \$20 billion program for research, development, and demonstration of fuels and energy technology. I hope we can pass this bill before the Thanksgiving recess, because we need that kind of a program.

The administration has proposed a special energy program, too, but it is inadequate. The administration is asking for \$10 billion, it says. But of the \$10 billion, \$7.5 billion is old money. Only \$2.5 billion is new money, and that \$2.5 billion, spread out over the 5-year life of the administration program, is only \$500,000 a year. That is no crash program. That is no project independence; that is project black-out and project mislead.

Mr. President, I have come to believe that the administration does not have the vaguest idea of what it wants. OMB is still trying to decide how to spend \$115 million which the President committed to energy research last summer. Months go by, lights dim, homes grow cold, and still OMB cannot allocate \$115 million. How are they going to spend \$10 billion? I worry about that, and I worry about how they will spend the \$20 billion we are going to give them. I hope they can do it, but I am beginning to lose faith in this administration's commitment to energy research and in its ability to carry it out.

In saying that, I want to say it is OMB where I have my problem. Dixy Lee Ray has done an outstanding job at the AEC. She has worked hard and has beaten deadlines by months. So she is to be commended.

A final point I want to make concerns those provisions in this bill making this delegation of powers to the President a temporary delegation and requiring a report to the Congress after 6 months. I do not think we are giving away any of our power by this bill. It is obvious that the Congress cannot administer a rationing program. It cannot police a program of conservation. That is appropriately a function of the Executive. The Congress is asserting itself by directing that this program of rationing and conservation go into effect. So one may say that this is Congress' program. In requiring a 6 months' report and the opportunity to kill or extend the legislation at the end of the year, we are going to keep control over this program. I think we should serve notice right now that we are going to monitor this program—our constituents will see to that—and we will require modifications where they are needed. We have learned something from the time the Gulf

of Tonkin Resolution was passed to the time we overrode the veto of the War Powers Act. We learned that we should not give away our powers in vague fashion and that we should monitor the delegations of power which we do make.

Mr. President, that is all I have to say. I wanted to point out to the people that the crisis that is on us is severe, and that it will require sacrifice and no one should entertain the slightest doubt otherwise. I also wanted to say that on this problem, Congress has done its work well. We are going to be able to pass this bill today because the Interior Committee has been studying the issue for several years and was ready to meet the crisis when it came. It is too bad the same thing cannot be said of the administration.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Tunney). The bill having been read the third time, the question is, Shall it pass?

On the question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FULBRIGHT (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Idaho (Mr. Church). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Idaho (Mr. Church), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that if present and voting, the Senator from Massachusetts (Mr. Kennedy), and the Senator from Mississippi (Mr. Stennis) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting the Senator from Nebraska (Mr. Curtis), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) would each vote "yea."

The result was announced—yeas 78, nays 6, as follows:

[No. 509 Leg.]

YEAS—78

Abourezk	Griffin	Muskie
Aiken	Gurney	Nunn
Bayh	Hansen	Packwood
Beall	Hart	Pastore
Bennett	Hartke	Pearson
Bentsen	Haskell	Pell
Bible	Hathaway	Proxmire
Biden	Hollings	Randolph
Brooke	Hruska	Ribicoff
Burdick	Hughes	Roth
Byrd, Harry F., Jr.	Humphrey	Saxbe
Byrd, Robert C.	Inouye	Schweiker
Cannon	Jackson	Scott, Hugh
Case	Javits	Scott, William L.
Chiles	Johnston	Stafford
Clark	Long	Stevens
Cook	Magnuson	Stevenson
Cranston	Mansfield	Symington
Dole	Mathias	Taft
Domenici	McClellan	Talmadge
Dominick	McGee	Thurmond
Eagleton	McGovern	Tower
Eastland	McIntyre	Tunney
Ervin	Metcalf	Weicker
Fannin	Montoya	Williams
Gravel	Moss	Young

NAYS—6

Bartlett	Buckley	Hatfield
Bellmon	Goldwater	Helms

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Fulbright, against.

NOT VOTING—15

Allen	Curtis	Mondale
Baker	Fong	Nelson
Brock	Huddleston	Percy
Church	Kennedy	Sparkman
Cotton	McClure	Stennis

So the bill (S. 2589) was passed, as follows:

S. 2589

An act to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Energy Emergency Act of 1973".

TITLE I—STATEMENT OF FINDINGS AND PURPOSES

Sec. 101. FINDINGS.—The Congress hereby determines that—

(a) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(b) such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods;

(c) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute a nationwide energy emergency which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(d) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(e) interruptions of energy supplies, both in the near term and in the future, will require emergency measures to reduce energy consumption, increase domestic production of energy resources, and provide for equitable distribution of available supplies to all Americans;

(f) the development of a comprehensive energy policy to serve all of the people of the United States necessitates the regulation of intrastate delivery and use of energy resources, other than natural gas, in order to insure the effective regulation of interstate and foreign commerce in energy;

(g) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing emergency fuel shortage contingency plans lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act.

(h) the protection and fostering of competition and the prevention of anti-competitive practices and effects are vital during the energy emergency.

Sec. 102. PURPOSES.—The purpose of this Act is to—

(a) declare by Act of Congress an energy emergency;

(b) grant to the President of the United States, and direct him to exercise, specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products, and other fuels, or dislocations in their national distribution system;

(c) provide a national program to conserve scarce energy resources, through mandatory and voluntary rationing and conservation measures, implemented by Federal, State, and local governments;

(d) protect the public health, safety, and welfare and the national security, and to assure the continuation of vital public services and maximum employment in the face of critical energy shortages;

(e) minimize the adverse effects of such shortages or dislocations on the economy and industrial capacity of the Nation;

(f) insure that measures taken to meet existing emergencies are consistent, as nearly as possible, with existing national commitments to protect and improve the environment in which we live; and

(g) direct the President and State and local governments to develop contingency plans which shall have the practical capability for reducing energy consumption by no less than 10 per centum within ten days and by no less than 25 per centum within four weeks of any interruption of normal supply.

(h) insure against anti-competitive practices and effects and preserve, enhance, and facilitate competition in the development, production, transportation, distribution, and marketing of energy resources.

TITLE II—EMERGENCY FUEL SHORTAGE CONTINGENCY PROGRAMS

Sec. 201. DECLARATION OF EMERGENCY.—The Congress hereby declares that current and imminent fuel shortages have created a nationwide energy emergency.

Sec. 202. PRESIDENTIAL AUTHORIZATION.—(a) The President is hereby authorized and directed to implement emergency fuel shortage contingency programs as provided for in this title.

(b) For the duration of the energy emergency, the President is further authorized to enter into appropriate understandings, arrangements, or agreements with foreign states, or foreign nationals, or international organizations, to adjust and allocate imports of fossil fuels, or take such other action as he deems necessary, with respect to trade in fossil fuels, in order to achieve the purposes of this Act. Any such formal agreement shall be submitted to the Senate of the United States, and shall be operative, but shall not become final until the Senate has had fifteen days, no less than seven of which shall be legislative days, to disapprove of such agreement.

(c) It is the sense of the Congress that since the present energy crisis is very much an international problem which calls for an international as well as domestic response, therefore the United States should endeavor to conclude an appropriate agreement with the other member nations of the Organization for Economic Cooperation and Development, or so many as may be agreed upon in such agreement, relative to the supplies of energy available to the industrialized nations of the free world and with special reference to joint or cooperative research and development for alternative sources of energy.

(d) The declared nationwide energy emergency and the authority granted by this Act shall terminate one year after the date of enactment of this Act. Six months after the date of enactment of this Act, the President shall submit to the Congress an interim report on the implementation of the Act, together with such recommendations for amending or extending the Act as he deems appropriate. If, at any time following receipt and consideration of the aforementioned interim report, the Congress agrees to a concurrent resolution terminating the action taken pursuant to the declared nationwide energy emergency, all authority granted by this Act shall expire thirty days after the passage of such concurrent resolution.

Sec. 203. EMERGENCY SHORTAGE CONTINGENCY PLANS.—(a) Not later than fifteen days after the date of enactment of this Act, the President shall promulgate a plan for a nationwide emergency energy rationing and conservation program. Such program shall assure, insofar as is practicable, that all vital services will be maintained and that unnecessary energy consumption will be curtailed.

(b) The rationing and conservation program provided for in subsection (a) shall include the following:

(1) an established priority system and plan, including a program to be implemented without delay, for rationing of scarce fuels quantitatively and qualitatively among distributors and consumers for the duration of the emergency. To the extent practicable such priority and rationing program shall include, but not be limited to, measures adequate to insure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impacts on public health; and

(2) measures capable of reducing energy consumption in the affected area by no less than 10 per centum within ten days, and by no less than 25 per centum within four weeks after implementation. Such measures shall include, but are not limited to: transportation control plans; restrictions against the use of fuel or energy for nonessential uses such as lighted advertising and recreational activities; a ban on all advertising encouraging increased energy consumption; limitations on energy consumption of commercial establishments and public service, such as schools; temperature restrictions in office and public buildings, including wholesale and retail business establishments; and reductions in speed limits:

Provided, That fuels not subject to regulation or allocation under this Act shall not be considered in determining the fuel needs or supplies or geographic areas or States of the United States.

(c) Not later than fifteen days after the date of enactment of this Act, the President shall take such action as may be necessary to determine the fuel needs among the major geographic regions of the United States and shall promulgate a plan which will assure an equitable distribution of available fuel supplies among such major geographic regions of the United States based upon their respective relative needs, including the respective relative needs of each of the several States within any such region. Such plan shall include such allocation of available transport facilities as may be necessary to assure the equitable dis-

tribution which is required under such plan. Plans prepared pursuant to this subsection shall be implemented within thirty days of their promulgation.

(d) Within two weeks or the date of enactment of this Act, the President shall also promulgate requirements for emergency energy conservation and contingency programs to be developed by each State and major metropolitan government, to implement the Federal program described in subsection (a) above. Such programs, which must be developed within eight weeks after the date of enactment of this Act and submitted for approval to the President, shall include at a minimum the provisions set forth in subsection (b) above. The President shall approve and direct the States to implement those State plans or portions thereof which he determines meet the requirements of this section for emergency energy conservation and contingency programs and which are necessary to deal with the energy shortage conditions facing the Nation. In developing the Federal program and requirements for State programs the President shall insure that the provisions for specific energy conservation and contingency measures are sufficiently flexible so that the desired reductions in energy consumption may be achieved with the minimum adverse impacts on local, State and regional economies and employment levels.

(e) In the event that a State or major metropolitan government fails to design and implement a contingency program as provided for in subsection (d), the Federal program implemented pursuant to subsection (a) above, shall remain in effect for such State or metropolitan government.

(f) The President shall direct immediate implementation of those rationing and conservation measures contained in the plans in this section as needed to achieve the purposes of this Act.

(g) In exercising the authority provided for in this Act, the Emergency Petroleum Allocation Act of 1973, the Economic Stabilization Act of 1970, as amended, and the Defense Production Act of 1950, as amended, the President shall strive to insure that all regions and all States of the Nation share available fuels in an equitable manner. The President shall give special consideration to those States and those regions of the Country which are depressed economically, experiencing high unemployment, or which lack ready access to energy transportation facilities adequate to meet their essential requirements.

(h) Nothing contained in this Act shall authorize the President to regulate or allocate natural gas not otherwise subject to the jurisdiction of the Federal Power Commission, except for the purpose of prohibiting the burning of gas for decorative purposes and except as provided in section 204(a) of this Act: *Provided, however*, That State regulatory bodies having jurisdiction over such natural gas shall cooperate with the President to achieve the conservation objectives of this Act.

Sec. 204. FEDERAL ACTION FOR FUEL CONSERVATION.—Notwithstanding any action taken on the part of State or local governments pursuant to the rationing and conservation programs required by section 203:

(a) the President may, in accordance with the rationing and conservation program required by section 203, require, after balancing on a plant-by-plant basis the environmental effects of such conversion against the need to fulfill the purposes of this Act, that any major fossil fuel burning installations, including existing electric generating plants, which now burn petroleum or natural gas and which have the ready capability and necessary plant equipment to burn coal or other fuels, to convert to burning coal or other fuels as their primary energy source. Any installation so converted may be permitted to continue to use such fuel for more than one year, subject to the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.). Insofar as practicable, conversions shall first be required for those plants where the use of coal or other fuels will have the least adverse environmental impact. Such conversions shall be carried out contingent upon the availability of coal, and the maintenance of reliability of service in a given service area. The President shall require that fossil fuel fired electrical powerplants now in the planning process be designed and constructed so as to have the capability of rapid conversion to burn coal. In areas where at that time the utilization of coal can reasonably be anticipated, the President may require that fossil fuel fired baseload electrical powerplants now in the planning process, other than combustion turbine and combined cycle units, be designed and constructed so as to be capable of rapid conversion to burn coal.

(b) (1) the Interstate Commerce Commission, with respect to carriers subject to regulation under sections 1(1) and 304(a) (1) of title 49, United States Code

(49 U.S.C. 1(1), 304(1)(a)), the Civil Aeronautics Board, and the Federal Maritime Commission, with respect to carriers operating in the domestic trades of the United States including its territories and possessions, for the duration of the energy emergency, in addition to their existing powers, shall have the authority on their own motion or by motion of any interested party, to review and make reasonable and necessary adjustments to the operating authority of carriers within their respective jurisdictions in order to conserve fuel while providing for the public convenience and necessity. Such adjustments may include but need not be limited to adjusting and rationalizing the operations of such carriers with regard to frequency of service, points served, scheduling to prevent duplication of service and reviewing or adjusting rate schedules to reflect such adjustment and rationalization. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law, after hearings in accordance with section 553 of title 5 of the United States Code. Any person adversely affected by an action shall be entitled to a judicial review of such action in accordance with chapter 7 of title 5 of the United States Code.

(2) within fifteen days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the energy emergency while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

- (1) the type of regulatory authority needed;
- (2) the reasons why such authority is needed;
- (3) the probable impact on fuel conservation of such authority;
- (4) the probable effect on the public convenience and necessity of such authority; and
- (5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to conserve fuel while providing for the public convenience and necessity.

(3) the regulatory agencies subject to this subsection (b) may, where appropriate, consult with departments or agencies of the Federal Government having expertise or jurisdiction over the modes of transportation involved.

(c) the President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems, and Federal subsidies for reduced fares and additional expenses incurred because of increased service, for the duration of the energy emergency. For the purposes of this section, paragraph (3) of subsection (e) of section 142 of title 23, United States Code, is amended as follows: strike the period at the end of the paragraph and add the following: "except that, with respect to the purchase of buses and rolling stock for fixed rail, the Federal share shall be 80 per centum."

(d) the President shall solicit recommendations from the Secretary of the Department of Transportation as to changes in Federal and State policies relating to motorized transport on the interstate highway system which would result in significant savings of fuel.

(e) all Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President, within thirty days of enactment of this Act, specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(f) the President shall organize and cooperate with the advertising industry and advertisers in developing a national energy conservation advertising program and in promoting educational programs to foster public acceptance of energy conservation needs and opportunities.

Sec. 205. AIR QUALITY REQUIREMENTS.—Should a Presidential order to change fuels pursuant to subsection 204(a) result in a violation of an air quality implementation plan, a suspension may be granted in accordance with the provisions of the Clean Air Act, as amended.

Sec. 206. ENVIRONMENTAL IMPACT STATEMENTS.—No major action taken under this Act shall, for a period of one year after initiation of such action, be deemed a major Federal action significantly affecting the quality of human environment

within the meaning of the National Environmental Policy Act of 1969 (86 Stat. 856). However, prior to taking any such major action that has a significant impact on the environment, if practicable, or in any event within sixty days of taking such action, an environmental evaluation, with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act of 1969, to the greatest extent practicable within this time constraint shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for thirty-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act of 1969 by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one-year period, or any action to extend an action taken under this Act to a total period of more than one year shall be subject to the full provisions of the National Environmental Policy Act of 1969 notwithstanding any other provision of this Act.

Sec. 207. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.—The President is authorized to initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(a) Require on a mandatory basis the production of designated existing domestic oilfields at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields.

(b) Require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands, under their respective jurisdiction shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery.

(c) Require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the priorities established in accordance with section 203.

(d) Order the acceleration of lease sales of energy resources on public lands, subject to existing law, to include, but not limited to, oil and gas leasing onshore and offshore and geothermal energy leasing: Provided, That the exemptions provided for in section 206 shall not be applicable to this subsection 207(d).

(e) Pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), to limit the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product to achieve the purposes of this Act.

Sec. 208. ADVERSE IMPACT ON EMPLOYMENT.—In carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

Sec. 209. AMENDMENT OF INTERNAL REVENUE CODE TO ALLOW DEDUCTIONS FOR ENERGY-CONSERVING ALTERATIONS OF TAXPAYERS RESIDENCES.—(a) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized reductions for individuals) is amended by redesignating section 219 as 220, and by inserting after section 218 the following new section:

"Sec. 219. ENERGY-CONSERVING IMPROVEMENTS OF TAXPAYER'S RESIDENCE.

"(a) IN GENERAL.—A taxpayer may elect to treat energy-conserving residential improvement expenses paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction for that taxable year. An election under this subsection shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulation.

"(b) **LIMITATION.**—The deduction allowed a taxpayer under this section for any taxable year shall not exceed \$1,000.

"(c) **DEFINITION.**—For purposes of this section, the term 'energy-conserving residential improvement expense' means any ordinary or necessary expense paid or incurred during the taxable year for repairs or improvements, designed to reduce heat loss in winter and heat gain in summer, to property used by the taxpayer as his principal residence, and includes, without being limited to, the installation of insulation, storm windows, caulking, humidifiers, other efforts designed for energy conservation, and any device or system designed to utilize solar energy to provide heating or cooling which meets performance criteria established by the National Bureau of Standards."

(b) The table of sections for such part VII is amended by striking out

"Sec. 219. CROSS REFERENCE."

and inserting in lieu thereof

"Sec. 219. REPAIR OR IMPROVEMENT OF TAXPAYER'S RESIDENCE.

"Sec. 220. CROSS REFERENCES."

(c) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (9) the following paragraph:

"(10) **ENERGY-CONSERVING IMPROVEMENTS OF TAXPAYER'S RESIDENCE.**—The deduction allowed by section 219."

(d) The amendments made by this section shall apply with respect to taxable years ending after the date of the enactment of this Act, and shall expire upon the termination of this Act.

Sec. 210. DEVELOPMENT OF ADDITIONAL ELECTRIC POWER RESOURCES.—Not later than ninety days after the date of enactment of this Act, the President shall promulgate a plan for the development of the hydroelectric power resources of the Nation. Such program shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power resources, including tidal power.

Sec. 211. COMPREHENSIVE REVIEW OF EXPORT POLICIES.—The Secretary of the Interior and the Secretary of Commerce are hereby directed to prepare a comprehensive review of export policies for petroleum and other energy sources to determine the consistency or lack thereof of the Nation's energy trade policy with domestic fuel conservation efforts. Such report shall be submitted to Congress within thirty days after the enactment of this Act.

TITLE III—ADMINISTRATION AND AUTHORIZATIONS

Sec. 301. CONGRESSIONAL APPROVAL.—Within two weeks after the date of enactment of this Act, the President shall submit to Congress his proposals for the emergency contingency programs provided for in title II of this Act, and proposals for implementing such programs. The Congress may, within fifteen days of such submission, five of which must have been in legislative session, by concurrent resolution specifically disapprove of all or part of the program or proposal.

Sec. 302. (a) LOCAL ADMINISTRATION.—The President may, in the implementation of any nationwide energy emergency rationing and conservation program, utilize a system of State and local offices as provided in this section.

(b) **STATE AGENCIES.** The President is authorized to permit appropriate State agencies to operate the program within each State through local boards or other local agencies, including appeal agencies, as may be necessary to insure that the nationwide program is implemented within each State in a manner responsive to the immediate needs of the locality and, consistent with the nationwide energy emergency rationing and conservation program. The State agencies are authorized and may be directed to consult with the elected officials of each locality when appointing the officials of such local agencies.

(c) **ADDITIONAL FUNCTIONS.**—The legislature of any State may in the development of any program of energy rationing or conservation, authorize the State agency to perform additional functions under State law: *Provided*, That the President may, by regulation, require such additional functions to be approved prior to their being implemented by the State agency.

Sec. 303. ECONOMIC INCENTIVES.—The Secretary of the Treasury and the Director of the Cost of Living Council are hereby authorized and directed to study and recommend to the Congress specific incentives to increase energy supply, reduce demand, and to encourage private industry and individual persons to subscribe to the goals of this Act and to comply with the requirements of programs de-

veloped and implemented pursuant to this Act. The study and recommendations required by this section shall include an analysis of the actions required to implement the principle that the producers and users of energy should pay the full long-run incremental cost of obtaining incremental supplies of energy and an analysis of the effects of such actions, if implemented, upon increasing energy supplies.

Sec. 304. STATE LAWS.—No State law or program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any program issued pursuant thereto except insofar as such State law or program is inconsistent with the provisions of this Act.

Sec. 305. FEDERAL FACILITIES.—Whenever practicable, and for purposes of facilitating the transportation and storage of fuel during the effective period of this Act, agencies or departments of the Federal Government are authorized to enter into arrangements for use by domestic public entities and private industries of equipment or facilities which are in idle status or otherwise excess to the short-term needs of such agency: *Provided, however,* That such arrangements shall be made at fair-market prices and only after a finding by the agency of non-availability of suitable equipment or facilities within private industry in the region of need.

Sec. 306. INJUNCTIVE RELIEF.—The United States district courts for the districts in which a violation of this Act or regulations or orders issued pursuant thereto occur, or are about to occur, shall have jurisdiction to issue a temporary restraining order, preliminary or permanent injunction to prevent such violation. Such injunction may be issued upon application of the Attorney General in compliance with the Federal Rules of Civil Procedure.

Sec. 307. SANCTIONS.—Any person who—

(a) Willfully violates any order or regulations issued pursuant to this Act shall be fined not more than \$5,000 for each violation.

(b) Violates any order or regulation issued pursuant to this Act shall be subject to a civil penalty of not more than \$2,500 for each day he is in violation of this Act, for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having previously been subjected to a civil penalty for a prior violation of any order or regulation issued pursuant to this Act shall be fined not more than \$50,000 or imprisoned not more than six months, or both.

Sec. 308. LOANS TO HOMEOWNERS AND SMALL BUSINESSES.—(a) The Federal Housing Administration and the Small Business Administration are authorized to make low interest loans to homeowners and small businesses for the purpose of installing new and improved insulation, storm windows, and more efficient heating units.

(b) It is the sense of the Congress that small business enterprises should cooperate to the maximum extent possible in achieving the purposes of this Act and that they should have their varied needs considered by all levels of government in the implementation of the programs provided for by title II.

(c) In order to carry out the policy stated in subsection (b)—

(1) the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the provisions of the programs provided for in title II which particularly affect such enterprises, and the activities of the various departments and agencies under such provisions, and (B) shall, as a part of its annual report, provide to the Congress a summary of the actions taken under programs provided for in title II which have particularly affected such enterprises;

(2) to the extent feasible, Federal and other governmental bodies shall seek the views of small business in connection with adopting rules and regulations under the programs provided for in title II and in administering such programs; and

(3) in administering the programs provided for in title II, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

(d) Any controls instituted shall be insofar as practicable, equitably applied to all businesses, whether large or small; and due consideration shall be given to the unique problems of retailing establishments and small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act.

Sec. 309. OFFICE OF EMERGENCY FUEL ALLOCATION.—The President shall establish a special office to receive complaints and emergency requests from officers of State and local governmental units who cannot obtain adequate supplies of gasoline or fuel oil. The office shall be authorized to act upon requests from appropriate State and local officers in situations where communities are threatened with the disruption of public services such as health, education, police, fire, and sanitation. The office shall be empowered to order that priority be given to provide that adequate gasoline and fuel oil supplies be immediately made available to these communities upon its determination that such supplies are needed.

Sec. 310. NATIONAL ENERGY ADVISORY COMMITTEE.—(a) There is hereby created a National Energy Emergency Advisory Committee which shall advise the President with respect to all aspects of implementation of this Act. The chairman of the committee shall be the Director of the Office of Energy Policy. In addition to the chairman, the committee shall consist of twenty members appointed by the President, who shall represent the following interests: energy industry, including but not limited to independent producers, refiners, transporters, and wholesale and retail marketers; transportation; industrial energy users; small business; labor; agriculture; environmental; State and local government; and consumers.

(b) The head of each of the following agencies shall designate a representative who shall serve as an observer at each of the following agencies shall designate a representative who shall serve as an observer at each meeting of the advisory committee and shall assist the committee to perform its advisory functions:

(1) the executive departments as defined in section 101 of title 5, United States Code;

- (2) Interstate Commerce Commission;
- (3) Atomic Energy Commission;
- (4) Federal Power Commission;
- (5) Federal Trade Commission;
- (6) Civil Aeronautics Board; and the
- (7) Federal Maritime Commission.

Sec. 311. ADMINISTRATIVE PROCEDURE IN ORDER TO INSURE ACCOUNTABILITY AND DUE PROCESS.—(a) The functions exercised under this Act are excluded from the operation of subchapter 2 of chapter 5, and chapter 7 of title V, United States Code, except as to the requirements of section 552, 555 (c) and (e), and 702 and except as to the requirements of section 553 as modified by subsection (b) of this section.

(b) All rules, regulations, or orders promulgated pursuant to this Act shall be subject to the provisions of section 553 of title V of the United States Code except that all rules, regulations, or orders promulgated must provide for the following—

(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this Act in the Federal Register. In each case, a minimum of five days following such publication shall be provided for opportunity to comment.

(2) Public notice of all rules, regulations, or orders promulgated by a State pursuant to section 203 of this Act shall be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) Any agency authorized by the President or by this Act to issue rules, regulations, or orders under sections 203, 204, 205, 206, 207, and 315 of this Act shall hold public hearings on those rules, regulations, or orders which the agency determines in its discretion are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than sixty days after the implementation of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

Any agency authorized by the President or by this Act to issue rules, regulations, or orders may not waive any of the requirements set forth in this subsection except that the requirements set forth in subsection (b) (1) as to time of notice and opportunity to comment may be waived where strict compliance is found to cause grievous injury to the operation of the program and such findings are set out in detail in the rules, regulations, or orders.

(c) (1) In addition to the requirements of section 552 of title V of the United States Code, any agency authorized by the President or by this Act to issue rules, regulations, or orders shall make available to the public all internal rules

and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order with such modifications as necessary to insure confidentiality protected under the Freedom of Information Act. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules, regulations, or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under the Freedom of Information Act.

(2) Any agency authorized by the President to issue rules, regulations, or orders under this Act shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(d) All proposals which the President submits for the approval of the Congress pursuant to section 301 of this Act and subsequent amendments and modifications thereto for the emergency fuel shortage contingency programs provided for in title II of this Act and for implementing such programs shall include the following:

(1) findings of fact and a specific statement explaining the rationale for each provision contained in such proposals.

(2) proposed procedures for the removal of the restrictions imposed by such plan or program, and

(3) a schedule for implementing the provisions of section 552 of title V of the United States Code.

Sec 312. JUDICIAL REVIEW.—Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases of controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act. If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of the title 28, United States Code.

Sec. 313. MATERIALS AND FUELS ALLOCATION.—To achieve the purposes of this Act, the President shall take such action as may be necessary to allocate supplies of materials, equipment, and fuels associated with exploration, production, refining, and required transportation of energy supplies to the extent necessary to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

The President shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and

regulations are contributing to the shortage of materials associated with the production of energy supplies and equipment necessary to maintain and increase the production of coal, crude oil and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act.

Sec. 314. ANTITRUST PROVISIONS.—(a) Except as specifically provided in subsections (f) and (k), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" includes—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) The President shall develop plans of action and may authorize voluntary agreements which are necessary to achieve the purposes of this Act and which encourage and facilitate cooperation and voluntary agreements between (1) the Federal Government, and (2) appropriate segments of the petroleum industry and interested and concerned labor, consumer, and other essential groups. These plans of action and voluntary agreements may be regional in nature or may address functional aspects of the Nation's petroleum system.

(d) (1) To achieve the purposes of this Act the President may, in addition to the National Energy Advisory Committee established by section 310 of this Act, provide for the establishment of interagency committee and such additional advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1973 (5 U.S.C. app. I) and shall in all cases be chaired by a regular full-time Federal employee.

(2) An appropriate representative of the Federal Government shall be in attendance at all meetings of any advisory committee or any interagency committee established pursuant to this Act. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and, subject to existing law concerning national security and proprietary information, shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

(e) The Attorney General and the Federal Trade Commission (1) shall participate in the preparation of any plans of action or voluntary agreement and may propose any alternative which would avoid or overcome, to the greatest extent practical, any anticompetitive effects while achieving the purposes of this Act, and (2) shall have the right to review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement at any time if they determine such plan of action or voluntary agreement is contrary to the purposes of this section, or not necessary to achieve the purposes of this Act.

(f) Whenever it is necessary, in order to achieve the purposes of this Act, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so and have the benefit of the defense provided for in subsection (k) if such meeting, conference, communication, or course of action is conducted in compliance with the provisions of this section and solely for the purpose of achieving the objectives of this Act.

(g) (1) The Attorney General may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (d) (1) and (3) where such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of carrying out and implementing a plan of

action or a voluntary agreement which has been prepared and approved pursuant to this section.

(2) Any meetings, conferences, or communications exempted from the requirements of subsections (d) (1) and (3) shall be undertaken in accordance with regulations promulgated to implement this section. These regulations shall provide that a log or memorandum of record of any meeting, conference, or communication covered by this subsection (g) (1) shall be prepared and filed with the Assistant Attorney General in charge of the Antitrust Division and the Federal Trade Commission.

(h) The President is authorized to delegate the authority provided for in section 314(c) and (d) (1) to a Federal officer appointed with the advice and consent of the Senate. The President shall issue regulations governing the operation and implementation of this section 314(c) and (d).

(i) No provision of this section is intended to supersede, amend, repeal, or modify any provision of the Defense Production Act of 1950, as amended, except that the provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the authority contained in the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973).

(j) This section 314 shall apply to the Emergency Petroleum Allocation Act of 1973 Conf. Rept. No. 93-628, November 10, 1973) notwithstanding any inconsistent provisions of section 6(c) of that Act.

(k) There shall be available as a defense to any civil or criminal action brought under the antitrust laws arising from any course of action or from any meeting, conference, or communication or agreement held or made in compliance with the provisions of this section solely for the purpose of carrying out a plan of action, voluntary agreement, or otherwise undertaken solely to comply with the requirement of this section.

(l) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way effecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act; (2) outside the scope and purpose of this Act and this section, or (3) subsequent to its expiration or repeal.

(m) (1) The Attorney General and the Federal Trade Commission are charged with responsibility for monitoring the implementation of any plan of action, voluntary agreement, regulation or order approved pursuant to section 314 to determine compliance with the purposes of section 101(h) and 102(h) of this Act.

(2) In furtherance of this responsibility, the Attorney General and the Federal Trade Commission will promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to implementation of any plan of action, voluntary agreement, regulation, or order approved under this Act.

(3) Persons implementing any program, plan of action, voluntary agreement, regulation, or order approved under this Act will maintain those records required by joint regulations promulgated pursuant to subsection (1) above, and they shall be available for inspection by the Attorney General and the Federal Trade Commission at reasonable times and upon reasonable notice.

(n) The exercise of the authority provided in section 204(b) (1) shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing an opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

Sec. 315. GRANTS TO STATES.—The President is hereby authorized to make grants to any State or major metropolitan government, in accordance with, but not limited to, section 302 for the purpose of assisting such State or local government in developing, administering, and enforcing emergency fuel shortage contingency plans under this Act and fuel allocation programs authorized under the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, Nov. 10, 1973).

Sec. 316. STUDY OF HEALTH EFFECTS OF SULFUR OXIDE EMISSION.—In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 204(a) the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of \$5,000,000 is authorized to be appropriated for such a study.

Sec. 317. EMERGENCY ENERGY ECONOMIC IMPACT STUDY.—(a) The Council of Economic Advisors, in cooperation with other agencies and departments, shall submit an Emergency Energy Economic Impact Report to the Congress. Such report shall include, but not be limited to the following assessments:

(1) Impact of energy shortage on employment loss and job dislocations; on agriculture planting and harvesting, including the impact on food and fiber prices; and on the various industries, factories, and flow of commerce and business.

(2) Impact of energy shortage on public services, including but not limited to hospitals, health care, public safety, and transportation.

(b) The above assessments shall include projections as to the impact on the economy during the first quarter of 1974 as well as the full calendar year.

(c) The report shall also include specific recommendations as to how the problems so identified can be minimized so as to reduce population hardship.

(d) A preliminary report is to be filed not later than thirty days after enactment of this Act and a final report not later than sixty days after enactment.

Sec. 318. AUTHORIZATION.—There are hereby authorized to be appropriated such funds as are necessary for the purposes of this Act.

Sec. 319. SEPARABILITY.—If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

TITLE IV—CLEAN AIR ACT AMENDMENTS

Sec. 401. Section 110 of the Clean Air Act, as amended (84 Stat. 1683), is amended by adding the following new subsection:

“(g) (1) During the period commencing November 15, 1973, and ending August 15, 1974, the Administrator is authorized to temporarily suspend any emission limitation related to control of pollutants resulting from fuel burning, or schedule or timetable for compliance with such emission limitation contained in any Federal, State, or local law, regulation, or requirement adopted under this Act as to any presently operating fuel burning stationary sources which is or would be in violation of such requirement due to actions ordered by the President under the National Energy Emergency Act of 1973, unless the Administrator determines that such suspension will present an imminent and substantial endangerment to the health of persons: *Provided*, That no such requirement may be suspended by the Administrator, unless the Administrator determines, (i) that such suspension is essential to enable redistribution of fuels to avoid or minimize violations of primary ambient air quality standards in another locality, or (ii) that the source does not or is not likely to have available, after implementation of all practicable measures in section 203 and 204 of the National Energy Emergency Act of 1973, fuel which can be burned in compliance with such requirement. No suspension granted under this subsection shall extend beyond the period of unavailability of complying fuel and in no event beyond November 1, 1974.

“(2) To obtain a suspension pursuant to this subsection, the owner or operator of such a source shall submit to the Administrator an application for a suspension of the applicable requirement which demonstrates the need for the suspension, and which establishes that the applicant will maintain where practicable during the period of the suspension an emergency supply of fuel which complies with applicable requirements, in order to avoid presenting an imminent and substantial endangerment to the health of persons during periods of air stagnation. The Administrator on his own motion or at the request of the Governor of an affected State may initiate such a suspension for area sources.

“(3) In granting suspension pursuant to this subsection the Administrator is authorized to reduce to ten days any Federal, State, or local time limits required for hearing procedures. In case of extreme emergency and with the concurrence of the Governor, such hearings may be waived. In all instances, he shall notify the Governor of the State, and the chief executive officer of the local government entity in which the affected source or sources are located and, to the extent practicable, the public.

“(4) Except as specified herein, any suspensions given under this subsection shall be exempted from any procedural requirements set forth in this Act or any other provision of local, State or Federal law, and the granting of such suspension shall not be subject to judicial review under section 307 nor to any proceeding under section 304 of this Act. Nothing in this subsection shall affect the power of the Administrator to deal with sources presenting an imminent and

substantial endangerment to the health of persons under section 303 of this Act."

Sec. 402. Subsection (a) of section 110 of the Clean Air Act, as amended (84 Stat. 1681), is amended by adding the following new paragraphs:

"(5) (A) The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard within the deadlines established pursuant in this Act. In making such determination the Administrator shall consider any current or anticipated suspension under subsection (g) and any projected shortages of fuels or emission reduction systems. Upon making a determination the Administrator shall notify the State and require revisions of the applicable plan or portion thereof. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision is disapproved the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan not later than November 1, 1974.

"(B) The owner or operator of any fuel burning stationary source may request a revision of the implementation plan with respect to such source. The Administrator shall approve such revised plan, after public notice and opportunity for hearing, but within sixty days of such request, if he determines (i) that the owner or operator of such source is able to enter into a contractual obligation to obtain a continuous emission reduction system which the Administrator determines has been adequately demonstrated, or into a long term contract to acquire fuel of sufficiently low sulfur content or implement applicable air quality standards, and (ii) that modifications with respect to such source are consistent with the implementation plan for the attainment of ambient air quality standards and are in accordance with the provisions of subparagraph (D) of this paragraph: *Provided*, That the approval of the Administrator shall be contingent upon the owner or operator of such source entering into such a contractual obligation or long-term contract. Any such revision shall be incorporated into any plan revised pursuant to subparagraph (A) of this paragraph.

"(C) Notwithstanding subparagraph (a) (2) (11) of this section, a State may initiate a revision of its implementation plan consistent with the provisions of subparagraph (D) of this paragraph. The Administrator shall approve or disapprove such a revised plan within one hundred and twenty days after submission.

"(D) Such revised plans shall include legally enforceable compliance schedules for such fuel burning stationary source or sources, which schedules shall specify continuous emission reduction measures to be used to achieve compliance, interim steps of progress, and alternate interim control measures to minimize the emissions of pollutants pending final compliance with applicable emission limitations. Actions taken under this paragraph shall be taken in accordance with procedures prescribed in this Act and shall be subject to judicial review in accordance with the Act: *Provided, however*, That the final date for compliance for sources regulated under this section may not extend beyond July 1, 1977, except in the case of extensions granted pursuant to subsection (f) of this section.

"(E) The Administrator shall report to the Congress by May 1, 1974, on the extent to which any applicable State or local air pollution requirement or deadline may adversely affect the implementation of the National Energy Emergency Act or of this paragraph.

"(6) In order to minimize the need for suspensions under subsection (g) of this section and to provide for interim compliance under paragraph (5) (D) of this subsection, the Administrator is authorized and directed to redistribute within an area designated pursuant to section 203(b) (1) of the National Energy Emergency Act, after consultation with the Secretary of the Interior, allocated fuels on a sulfur content basis to insure, to the maximum extent practicable, that such fuels are utilized in a manner that will minimize adverse effects on health.

"(7) The Administrator may take such actions as are necessary to assure that emission reduction systems are first provided to users in air quality control regions with the most severe air pollution except that no such action shall affect existing contracts."

TITLE V—ASSISTANCE TO PERSONS ADVERSELY AFFECTED BY
THIS ACT

Sec. 501. ASSISTANCE TO PERSONS UNEMPLOYED AS A RESULT OF THIS ACT.—(a) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred and shall be reduced by an amount of private income protection insurance compensation available to such individual for such period of unemployment.

(b) **FOOD STAMPS.**—(1) Whenever the President determines that, as a result of any such employment loss, low-income households are unable to purchase adequate amounts of nutritious food, the President is authorized, under such terms and conditions as it may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964, as amended, and to make surplus commodities available.

(2) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the employment loss on the earning power of the households to which assistance is made available under this section.

(3) Nothing in this subsection shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964, as amended, except as they relate to the availability of food stamps in such an employment loss.

(c) **REEMPLOYMENT ASSISTANCE.**—The Secretary of Labor is authorized and directed to provide reemployment assistance services under other laws of the United States to any such individual so unemployed. As one element of such reemployment assistance services, such Secretary shall provide to any such unemployed individual who is unable to find reemployment in a suitable position within a reasonable distance from home, assistance to relocate in another area where such employment is available. Such assistance may include reasonable costs of seeking such employment and the cost of moving his family and household to the location of his new employment.

(d) **SMALL BUSINESS LOANS.**—(1) The President, acting through the Small Business Administration, is authorized and directed to make loans (which for purposes of this subsection shall include participations in loans) to aid in financing any project in the United States for the conduct of activities or the acquisition, construction, or alteration of facilities (including machinery and equipment) required by the administration or enforcement of this Act, for applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality (including units of general purpose local government) is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation or at previous levels of employment.

(2) Financial assistance under this section shall be on such terms and conditions as the President determines except that—

(A) no loan shall be made unless it is determined that there is reasonable assurance of repayment;

(B) no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years;

(C) loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum;

(D) loans shall not exceed the aggregate cost to the applicant of acquiring, constructing, or altering the facility or project;

(E) the total of all loans to any single applicant shall not exceed \$1,000,000; and

(F) the facility or project has been certified by the regulatory authority as necessary to comply with the requirements of this Act.

(e) APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(f) REPORT TO CONGRESS.—The Secretary shall report to the Congress on the implementation of this section not later than six months after the enactment of this Act, and annually thereafter. The report required by this subsection shall include an estimate of the funds which would be necessary to implement this section in each of the succeeding three years.

TITLE VI—MISCELLANEOUS

Sec. 601. CONSULTATIONS WITH CANADA.—(a) The President is authorized and directed to convene consultations with the Government of Canada, at the earliest possible date, to explore means to safeguard the national interests of the United States and Canada through consultations covering trade in natural gas, petroleum, and petroleum products between Canada and the United States, so as to encourage the maximum volume of such trade consistent with the interests of both nations.

(b) The President shall report to the Congress, on an interim basis, on the progress of such consultations as may be undertaken pursuant to this section, within forty-five days of passage of this Act.

(c) The President shall issue a final report to the Congress on the results of such consultations as may be undertaken pursuant to this section, within ninety days of enactment of this Act. Such report shall include recommendations of such legislation as the President shall deem necessary to further the purposes of this Act.

Sec. 602. NATIONAL ENERGY EMERGENCY DISASTER ASSISTANCE PLAN.—(a) Where, in the determination of the President, the national energy emergency is, or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of State, local government, and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the Governor of any State in which such a severe emergency exists or threatens to exist certifies the need for Federal disaster assistance under the Disaster Relief Act of 1970, as amended, and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from such emergency, the President may designate one or more major disaster areas under the terms of the Disaster Relief Act of 1970, as amended.

(b) The President shall require the Federal Disaster Assistance Administration to promulgate, not later than fifteen days after the date of enactment of this Act, a nationwide contingency plan for insuring the availability of Federal disaster assistance to families, individuals and communities that qualify for such assistance as a result of the nationwide energy emergency. Such plan shall include, but not be limited to, specific procedures for:

(1) coordinating activities of all Federal, State and local disaster relief and civil defense officials for the purpose of establishing neighborhood centers to provide emergency heat, food and shelter for individuals and families who, as a result of the energy emergency, require such assistance;

(2) distribution of surplus food commodities by the Secretary of Agriculture pursuant to the Food Stamp Act of 1964 and the provisions of section 203 of the Disaster Relief Act of 1970, when the President determines that, as a result of unemployment caused by industrial or commercial energy shortages, households are unable to purchase adequate amounts of nutritious foods; and

(3) provision of the necessary emergency personnel, equipment, supplies, facilities and other resources in accordance with the authority granted under the Disaster Relief Act of 1970, necessary to help in alleviating the damage, loss, hardship, or suffering caused by the national energy emergency.

Sec. 603. PROHIBITION OF FUNDS FOR PURCHASE, HIRE, OR OPERATION AND MAINTENANCE OF PASSENGER MOTOR VEHICLES.—(a) No funds made available under any Act may be used for the purchase, hire, or operation and maintenance of passenger motor vehicles (other than passenger motor vehicles of the types generally available in motor pools of Government agencies on the date of enactment of this Act) or for the salaries or expenses of chauffeurs or drivers to operate passenger motor vehicles, except in carpools.

(b) No funds made available under any Act may be used for the purchase, hire, or operation and maintenance of any passenger motor vehicle for the transportation of any Government officer or employee between his dwelling and his place of employment, except in cases of medical officers on outpatient medical service and except in cases of officers and employees engaged in fieldwork in remote areas, the character of whose duties make such transportation necessary and only when such exceptions are approved by the head of the department concerned.

(c) Subsection (a) and (b) shall not apply with respect to the purchase, hire, operation, and maintenance of (1) passenger motor vehicles for use by the President; and one each by the Chief Justice, members of the President's Cabinet, and the elected leaders of the Congress; or (2) of passenger motor vehicles operated to provide regularly scheduled service on fixed routes.

Sec. 604. REPORTS OF THE PRESIDENT TO CONGRESS.—The President shall report to the Congress every sixty days, beginning December 1, 1973, on the administration of this Act and the Emergency Petroleum Allocation Act of 1973, and each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts, together with specific budget estimates for such programs.

Sec. 605. USE OF CARPOOLS.—(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this subsection to maximize the level of carpool participation in America.

(b) The Secretary of the United States Department of Transportation is directed to establish within the Department of Transportation an "Office of Car Pool Promotion" whose purpose and responsibilities will include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll reductions and other incentives as may be found beneficial to the furtherance of carpool ridership.

(d) The Secretary of Transportation is directed to allocate the funds appropriated pursuant to this subsection according to the following distribution between the Federal and State or local units of government.

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial start-up and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed one year.

(e) Within twelve months of enactment of this legislation the Secretary shall make a report to Congress of all its activities and expenditures pursuant to this subsection. This shall include any recommendation as to future legislation concerning carpooling.

(f) The sum of \$25,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this subsection, such authorization to remain available for two years.

Sec. 606. PETROLEUM ALLOCATION FOR MINERAL PRODUCTION.—The President is authorized to allocate residual fuel oil and refined petroleum products in such

amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction and processing of, minerals, and for required transportation related thereto.

Sec. 607. PROTECTION OF FRANCHISED DEALERS.—(a) As used in this section—

(1) "Distributor" means an oil company engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) "Franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) "Notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) "Petroleum product" means any liquid refined from oil and useable as a fuel.

(5) "Refiner" means an oil company engaged in the refining or importing of petroleum products.

(6) "Retailer" means an oil company engaged in the sale of any petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b) (1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

(c) (1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraphs (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist, including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and punitive damages where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. The court may also grant an award for actual damages resulting from the cancellation, failure to renew, or termination of a franchise.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

The title was amended so as to read :

"A bill to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes."

Mr. JACKSON. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. FANNIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized, in the engrossment of the bill, to make certain technical and clerical corrections.

The PRESIDING OFFICER (Mr. Burdick). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, with the passage of this proposal goes the clear message that the Senate of the United States has initiated action to meet the Nation's energy crisis while the executive branch and its so-called experts have failed to provide any measures to offset our current difficulties.

CHAPTER 12

ADMINISTRATION'S TESTIMONY

HEARINGS ON THE ADMINISTRATION'S PROPOSAL FOR RELAXATION OF AIR
POLLUTION STANDARDS, COMMITTEE ON PUBLIC WORKS, SUBCOMMIT-
TEE ON AIR AND WATER POLLUTION, U.S. SENATE, SEPTEMBER 18, 1973

ADMINISTRATION'S TESTIMONY, SENATE HEARINGS ON RELAXATION OF AIR POLLUTION STANDARDS

THE ADMINISTRATION'S PROPOSAL FOR RELAXATION OF AIR POLLUTION STANDARDS

TUESDAY, SEPTEMBER 18, 1973

UNITED STATES SENATE,
COMMITTEE ON PUBLIC WORKS,
SUBCOMMITTEE ON AIR AND WATER POLLUTION,
Washington, D.C.

The subcommittee met at 11 a.m., pursuant to call, in room 4200, Dirksen Senate Office Building, Hon. Edmund S. Muskie (chairman of the subcommittee) presiding.

Present: Senators Randolph (chairman of the full committee), Muskie, Biden, Baker, Buckley, Stafford, McClure, and Domenici.

OPENING STATEMENT OF HON. JENNINGS RANDOLPH, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator RANDOLPH (presiding). Good morning, ladies and gentlemen. The able chairman of our Subcommittee on Air and Water Pollution, Senator Muskie of Maine, is understandably detained because of certain votes that apparently are being taken at this time in the Foreign Relations Committee on reporting the nomination of Mr. Kissinger to the Senate.

We will begin and hope—and I have been assured—that he will be with us in perhaps 10 or 15 minutes.

We have the privilege today of sharing our counsel—on both sides of the table, not in any sense as a confrontation, but certainly as a statement of viewpoints—with you, the Director of the Energy Policy Office, John Love, of Colorado.

I am going to make just brief remarks at the outset of this meeting. I think that constantly people talk about the problems of the environment and about the problems of energy. They seem to think that they cannot come together in commonalty in an understanding way, that there must be a continued polarization of these two concerns.

The Congress, of course, faces these issues, but I hope not in just that way. I think there is a realistic need within our country for the structuring and implementation of environmental policies.

Some of the prevailing policies may be—I say may be—unduly restrictive. They are, however, the law and must be taken seriously and must be observed, and they must be enforced until they are either rescinded or amended.

We have not done well in finding a suitable or perhaps an equitable balance between energy and the environment. I believe there is blame on many sides.

The cause and the long term success of Federal environmental policies, I think, is threatened. Then, equally, our vital energy base, perhaps our whole economy and maybe our security—our national security—these may be endangered in degree.

Then we ask ourselves the question, why does this exist? I think because the respective spokesmen for environmental and economic interests have made insufficient efforts to reason together.

I suggest to you, Governor Love, they have perhaps been acting in the role too often—as let's use the term "pressure groups"—to make the Congress and the interests that they effect something that is unreal.

The Congress is not an arbitration board, as such. In the necessary spirit of a compromise there must be developed a consensus on immediate and long term environmental objectives that mesh, not clash, with the policies that may be established for energy.

The hearing today will serve a good purpose. It concerns itself with the specific interrelationship between available environmentally acceptable energy supplies and air pollution controls that stem from the Clean Air Act.

In the 1970 amendments to that act we thought that we were taking, and I believe today we were, an important step toward a national policy for simultaneous achievement of both environmental objectives and recognition of energy needs.

I recall on April 4, of this year, in an address on this subject in the Government Affairs Seminar of the Air Pollution Control Association, I stated that I believe both national policies can be achieved.

I believe that both the national policies for well-reasoned energy programs, and the policies for well-reasoned environmental programs can be achieved.

OPENING STATEMENT OF HON. EDMUND S. MUSKIE, U.S. SENATOR FROM THE STATE OF MAINE

Today's hearing was called as a result of President Nixon's announcement to seek relaxation of clean air rules to avert a winter energy shortage. On September 8 the President directed energy policy adviser Governor John Love to seek State action to relax emission standards for sulfur oxides.

Reportedly, relaxation of sulfur oxide emission standards would help avert a home heating-electricity crisis. I am advised that these emission standards have, in almost every case, been adopted as Federal standards. Thus, any revision or relaxation of those standards would require the approval of the Administrator of the Environmental Protection Agency.

It is generally asserted that there will be a fuel shortage this winter in many parts of the Nation, but there are few statistics to support these assertions.

Little, if any, information has been made available which indicates what or where the supply and demand will be. Less information is available on what impact a relaxation of emission standards would have on the overall availability of fuel. And no information is available on how low sulfur fuels, purportedly in limited supply, would be distributed to areas where air quality problems are most severe.

My impression is that the President proposes to use a meat ax to solve a problem which requires a scalpel. If temporary relief from emission requirements will assure availability of home heating fuels and electricity supply then relief should be granted, but only as a result of careful examination of the specific results to be achieved.

But what other policies has his administration considered to stretch limited supplies? Have fuel conservation alternatives been evaluated? Why haven't mandatory allocations of limited resources been proposed?

I cannot believe that a policy of wholesale exception to clean air requirements will relieve the crisis of supply. Even if specific clean air exceptions can be justified, I doubt that this is the best or the only option. We need a fuels policy which recognizes both the cause of the shortage as well as the cause of the increase in demand.

We need an enforceable fuels distribution mechanism which assures maximum environmental protection and minimum economic dislocation. The recent proposal by the administration does not approach this objective. The crisis continues. This winter appears to be a beginning rather than the end. I look forward to Governor Love's discussion of these issues.

STATEMENT OF JOHN LOVE, DIRECTOR, ENERGY POLICY OFFICE

Mr. LOVE. Thank you, Mr. Chairman and distinguished members of the committee for the statements and questions presented certainly have mapped out—

Senator RANDOLPH. Governor, I have asked exactly how many of our members here are a member of that study group from this committee. Senator Baker, Senator Buckley, Senator McClure, Senator Domenici and your chairman are all actively members of that ad hoc structure that is moving forward and really accomplishing something. I am certain of that.

Senator BAKER. I am on it as a member of the Joint Committee on Atomic Energy.

Mr. LOVE. Mr. Chairman and members, as the questions and statements you have made indicated and certainly have a broad range and probably serve a broad range of interests, before I get into my statement, which is fairly specifically designed to respond to the heating

oil situation this winter and the proposal in regard to sulfur standards, I would like to just at least comment and respond briefly to some of the statements that have been made.

I certainly agree with you, Mr. Chairman, that this cannot be allowed to be simply a confrontation. I have said many times, although it is not too helpful in providing policy, that there would be no solution if we have all of the energy in the world and air we couldn't breathe.

On the other hand, certainly with the most pure and clean air with no energy, it is not a solution either. We must find a way in which these two imperatives can be met.

I further would like to state that I personally also understand that to assign the energy problem or crisis simply to the environmental movement is erroneous in my opinion. Undoubtedly any of us can point to some places in which it has had some effect, but to simply assign it as full responsibility to the environmental movement is incorrect and erroneous.

Similarly, Senator, in my opinion. I would say that although I hold no particular brief for the oil companies and have no particular knowledge or evidence one way or the other, I am firmly convinced that the energy problem is much deeper than anything that could be assigned simply to a plot on the part of the oil companies.

I remember some years ago as Governor of Colorado in attempting to promote the development of oil shale in Colorado the graphs that we used at that time would indicate the growing demand for energy in the United States and the line that indicated the supply, domestic supply growing at a lower rate and talking in terms about what would indeed go to make up that growing gap.

Insofar as you can assign a blame for the energy problem, I believe it is simply related to a remarkably increasing and burgeoning demand, not only in the United States, but worldwide.

We have been increasing our demand at an increasing rate recently. I have used the statement in mortal words of polo; we have met the enemy and he is us. It is our use, demand for energy which is closely related to our economy, our development and our society and so on as much as anything else.

There is plenty of room for blame. I believe that we in Government can take our fair share, certainly the companies perhaps have not foreseen and so on. But I do think that to assign it to any simple reason will be a disservice to the people of the United States, because I think before we can work toward the proper solutions there must be an understanding that this is real, that it is not going away soon, that it is not something that there is a simple panacea for.

As a matter of fact, I believe it is going to get worse within the next several years for really mechanical reasons that lead time on any of the solutions is so long that I don't see any substantial increase in supply for at least the next 3 years, perhaps 5.

With that, I am sure we can expand on anything that interests you in questions, but I will direct myself to this current and specific situation that I am here to discuss today.

I will attempt to explain how we are trying to work within the Clean Air Act rather than how it might be modified. I discussed possible modifications of the Act yesterday in a hearing before a House committee.

In my presentation, I will first discuss why we have the problems we do, and then I will discuss the outlook for this winter, and finally I will discuss the specific actions we are asking the States to undertake.

There are many reasons for our current energy problems, and environmental restrictions are only one of the reasons. The primary reason for our immediate problems this winter is lack of refining capacity.

For various reasons, including the disincentives under the old mandatory oil import program, problems in obtaining sites and commitments for crude oil, and lack of ports able to handle very large crude carriers, not enough refineries have been built.

The problems in obtaining crude oil were reduced by the elimination of import quotas which the President announced in April. Since then there have been a number of announcements of new refinery projects, representing both expansions and new construction.

However, constructing these will take time. In addition, since the United States lacks deep water ports such as those possessed by most other countries, the President has requested Congress to pass a bill to license deep water ports.

In addition, there are problems in obtaining crude for some of the refineries we have now. Domestic crude is typically low sulfur, while Middle Eastern and Venezuelan crudes are high sulfur. Most of our own refineries were designed to use domestic low sulfur oils and cannot physically handle corrosive high sulfur crudes. Some refineries, especially at inland locations have been running at less than full capacity because of lack of low sulfur crude.

Due to low prices and environmental restrictions, the potential demand for natural gas has risen rapidly. However, with prices held at artificially low levels due to regulation, the supply has fallen far below this demand. The result has been that many users have been forced to shift to oil, putting further pressure on our already short supplies of oil.

The President has called for deregulation at the wellhead of new supplies of natural gas as a way of limiting demand and increasing supply.

There are other factors which have contributed to our current problems including failure to build the Alaskan pipeline, low water flow in the Northwest—which is an interesting coincidence not associated really with the petroleum situation—delays in offshore leasing, delays in building nuclear plants, and Cost of Living Council actions.

The President has repeatedly called for construction of the Alaskan Pipeline, and has made plans to increase our rate of offshore leasing as soon as the environmental studies can be made.

Let me now turn to how we see this winter. Let me caution you that studies are still under way, and that the numbers we use later may be slightly different than those I am giving you today. The reason for that is there are many variables in trying to forecast the situation this winter, the weather being one of course, our situation in Libya, and others I will mention later, whether we can continue to keep our refinery capacity at the high level it presently is.

Distillate fuels, which I will discuss, include both home heating oils and diesel fuel for our trucks and buses.

Considering natural gas curtailments and increased utility use, plus normal increases in demand, our forecasts for 1973 and 1974 translate into an estimated demand for the 1973-74 winter heating season 10 to 12 percent above last winter.

Last winter's heating season experienced unusually cold weather before the turn of the year and unusually warm weather in the first 3 months of 1973. Taken together, the two winter quarters were 3.3 percent warmer than normal.

Adjustment for a colder winter, normal sector growth rates, and increased use of distillate, which I have described, account for the large projected increase.

Our crude production peaked in 1970 domestically and has declined gradually since then. In 1972 production averaged just under 9.5 million barrels a day and it is expected to continue to decline to about 9.2 million in 1973, and to 9.0 in 1974.

To meet expanding demand, import of crude oils has been growing rapidly. Imports of refined products are also growing rapidly since the United States has an essentially fixed refinery capacity that is now operating at or near maximum possible levels. Thus, we cannot refine much more crude oil even though we want to.

As you know our foreign sources of crude supply are principally Canada, Venezuela, North Africa, and the Middle East. As imports from the Western Hemisphere are currently near maximum levels and declining, most of our additional crude oil imports will be high sulfur crudes from the Middle East. That crude oil, even if it continues to be available, poses problems.

Our estimates of domestic production must be based on current refinery capacity, allowing for minor expansions known as debottlenecking. In addition to capacity, however, another key factor for this winter will be the rate at which we utilize our refineries.

For most of 1971, rates hovered around 85 percent. During 1972 they increased dramatically, and this year they reached record levels, remaining at 94 percent during the third quarter. Under fortuitous circumstances the refinery utilization rate might continue at about 93 to 94 percent, though it will be 1 to 2 percent lower than that. We cannot plan on output continuing at such levels indefinitely, because:

Maintenance was deferred, which cannot be done forever.

There were no unexpected (or emergency) capacity losses from fires or floods or failures.

Equipment failures will probably increase in frequency because the high operating rates were maintained for long periods, and

Increased dependence on sour imported crudes will result in the underutilization of refineries not designed to handle them.

Natural gas curtailments may force refiners to burn some of the fuels that they would have otherwise sold.

If refinery capacity is used as expected and inventories by the end of March 1974 are to be maintained at a minimum level (about 101 million barrels), to assure there are minimal shortages due to insufficient inventories imports of distillate must average about 600,000 to 650,000 barrels per day during the winter season.

Inventories as of August 29, 1973, were 173.4 million barrels. This is up over last year's level. What should also be noted, is that last year's stock levels were below average. This year's inventory is nearly at the 1971 level, which was about normal for that year.

Our previous high rate of imports was the average of 530,000 barrels per day for one quarter last winter. Thus, considering the best estimates of the availability of foreign petroleum products, we are hopeful that we can import enough distillates to meet demand. However, the winter in Europe last year was mild, thus permitting significant U.S. purchases of European distillates. European refinery capacity has increased, but some experts still doubt that we will be able to import more distillate than last year. If we cannot, we may have a shortage.

These projections do vary widely, depending on the assumptions. For example, if refinery output can rise 2 percent above the base case projections I have been discussing, the need for imported distillates would be reduced by 200,000 barrels per day. This is because both crude runs and yields of distillate are increased due to sufficient gasoline already being produced. A number of experts feel that this will, indeed, be the case.

On the other hand if capacity use drops by 2 percent, distillate import needs will rise to 740,000 barrels per day. Gasoline imports would also need to increase by 65,000 barrels a day to 215,000 barrels a day during the first three quarters of 1974 because current gasoline production could not be sustained at the lower refinery operating rates.

To consider another possibility, if the weather is abnormally warm (5-year average) and refinery throughput can be kept at the higher rate, import needs would be 360,000 barrels during the winter, or 10-percent less than last winter.

On the other hand, a cold winter and low refinery use rates could together increase import needs to 860,000 barrels a day during the winter. Clearly, under even the most fortuitous circumstances, imports must approximate last year's level and under less favorable conditions, greatly increased imports are necessary.

I would like now to turn to the matter of principal interest to you, why we have felt compelled to ask the States to relax their sulfur emission limitations.

First, let me make very clear the distinction between the ambient air quality standards set in the Clean Air Act, and the emissions limits set by the States.

Under the pressure of time, many States determined what set of emission regulations were required to achieve the ambient air standards in their dirtiest city. These regulations were then applied to the whole State or to the whole of the air quality region in which the city was located.

The result was that over most of the State the restrictions were far more strict than was required to achieve the ambient air standards.

We are now faced with the need to import more high sulfur oil, both residual and distillate. We are trying our best to insure that this oil is burned where and when it will do the least harm.

EPA has been aware of this coming problem since before I joined the Government and has been attempting to determine how to utilize the oil to do the least damage. I can assure you we will be giving high

weight to their advice on this matter. As explained earlier, most States have large areas where the emission restrictions are far stricter than are required to achieve the ambient air standards.

For instance, Maryland applies the same emission limitations to the rural areas of the Eastern shore as they do to downtown Baltimore. Thus, considerable relaxation of emission limitations is possible without threatening to exceed the ambient air standards set to protect public health. Doing so requires that we think not in terms of State-wide regulations applicable to all areas, at all meteorological conditions, but rather in terms of what is needed here and now.

In addition to asking the States to relax certain emission limitations now, we are also preparing contingency plans in case the weather is colder than usual, or the situation deteriorates for some other reason. Because compliance with the procedures specified in the Clean Air Act is time consuming, we are asking the States to modify their implementation plans now so that further variances can be granted quickly if needed.

I have already explained why we must accept a large volume of high sulfur distillates from abroad. Because of lack of desulfurization capacity, and use of Middle Eastern crudes, her distillate supply averages about 0.6 percent sulfur.

Some of our air pollution regulations require sulfur of much lower levels. New York City requires 0.2 percent sulfur distillate. The intention is to extend this to the rest of the air quality region for next winter, thus including such areas as Suffolk County.

Philadelphia required 0.3 percent last year, and intends to go to 0.2 percent this winter. However, many of our areas apply the same set of sulfur regulations to distillates as they do to residual fuel oils in spite of the difference in typical stack heights of facilities using the two fuels.

When this is done, the rules on distillate sulfur content prove non-restrictive. EPA has estimated that 20.5 percent of this coming winter's distillate demand will require distillates of under 0.2 percent sulfur content, and 48.3 percent must be below 0.5 percent.

It is obviously impossible to bring in additional distillate in sufficient quantities without relaxing the State emission limitations. One of the problems we are faced with is whether we get less total imports if importers in certain areas such as New York and Long Island cannot use higher sulfur distillates.

There are several reasons why relaxation of sulfur standards for residual fuel oil is necessary. One is simply that enough foreign residual fuel oil of the required sulfur content is not available due to lack of desulfurization capacity and the high sulfur content of most foreign crudes.

Another problem has to do with the emissions from refineries themselves. Certain refineries that can physically handle corrosive high sulfur crudes, must run low sulfur crudes to keep refinery emissions within limits.

Additional pressure to run sweet crudes when sour could be used results from the need to produce low sulfur products. In some cases, legal inability to utilize sour crudes combined with unavailability of sweet crudes has resulted in operation at less than full capacity.

In other cases the refinery has been able to get the sweet crude, but the very fact they got it made it harder for other firms to obtain it.

Some inland refiners are operating at less than capacity because of difficulty in obtaining the sweet crude their refineries were designed for. One reason for this is that the integrated refiners are being forced to utilize their own sweet crude rather than selling it.

Our emission regulations have led to an increase in the use of distillate fuels where residual fuels could be used. In some cases regulations were such that only distillate fuels could qualify. In other cases, the price advantage of distillate fuels over low sulfur residual is now small.

The greater ease of handling No. 2 oil then led many users to shift from residual fuel oil. For instance, the amount of distillates used by powerplants under boilers has risen to 5.9 million barrels for the last quarter of 1972.

For many refineries the lowest sulfur residual fuel oil can be obtained only by blending in substantial quantities of distillates. A relaxation in sulfur specifications will free up some of these distillates for sale as a home heating fuel.

Some of the high sulfur residuals are now used for cooking. This converts part of the fuel to lighter fractions which bring higher prices, and part to coke. The total heat contents of the liquid products coming from the coker is substantially less than the heat content of the material that went in. By using the high sulfur material as a blending stock in residual fuel oil, our total volume of fuel oil could be increased.

Finally, there is still some excess capacity in European refineries. If they increase their utilization of this capacity, they will also produce large quantities of high sulfur residual oils. We may have to take this residual oil if we want to get the heating oil.

I would like now to move on and discuss another problem that requires more attention—the use of high sulfur residual fuel oils. It is important to understand that when a refinery installs a desulfurization unit, all of the crude is not desulfurized. The refiner is left with some high sulfur residual and some low sulfur residual.

They can be blended with the desulfurization material to give a single product that can be used everywhere, giving similar emissions in various parts of the country.

An alternative strategy would be to direct the lowest sulfur fuel to our polluted cities, and to use the higher sulfur materials elsewhere. A third possible strategy involves burning some of both at certain powerplants.

Instead of following the current procedure of mixing the two, and burning a fuel of the average sulfur content at all times, one might wish to keep the two fuels separate, and burn them at different times, depending on meteorological conditions. This should make it possible to turn significant quantities of high sulfur fuels without violating primary standards. Since excessive emission restrictions in one area may actually make it difficult to achieve clean air in another area, these alternative strategies may provide other ways to work toward both energy and environmental goals.

I have just given the reasons why a relaxation of State emission limitation is necessary to increase our total fuel supply. Let me emphasize again that this does not necessarily mean that we will be violating the Federal ambient air standards. Outside of the major cities there is much overkill in the State emission limitations.

Even within the major cities, much high sulfur fuel can be burned during conditions of good dispersion if we shift to lower sulfur fuels at the times of bad dispersion. Currently we are meeting the annual sulfur standards in all cities of over a million population, and only in three of those cities, for a few days per year in each, is the 24-hour standard not being met.

You may ask why we are planning now for emission limitation relaxation when summer is scarcely past. I am certain you realize that the Clean Air has definite procedures to use in amending State implementation plans which involve public hearings. These take time.

Second, you must understand that we are talking about importing substantial volumes of high sulfur fuels, not just an occasional shipload. Last year we were able to wait until the last moment and then give variances for individual shiploads acting on an emergency basis.

Such actions create problems. If you wait until a ship is offshore and you are nearly out of oil, you have little choice as to whether you take it or where you take it. One can easily end up burning the highest sulfur oil in the heart of our largest cities at the worst possible meteorological times simply because that was where the crisis occurred first.

By planning ahead we hope to be able to comply with all the procedures in the Clean Air Act, and to use the high sulfur fuels at the places and at the times where they are least likely to cause a violation of the ambient air standards.

This year we are talking about importing substantial quantities of imported fuel. After the State regulations have been amended, it is necessary for the oil companies to commit for the fuel and bring it in. This takes time.

Consider an oil company that is going to import more Middle Eastern oil to run in a domestic refinery if it can do so without violating emission limitations.

It must first buy the oil or get it out from under a contract for sales to another nation. The oil must then be shipped 12,000 miles to the United States. Here it must be refined, and the products distributed to their markets. And we hope to still have time enough to have the oil go to the place where it will do the least harm, and perhaps to hold off burning it if the meteorological conditions are adverse. We do not want to have to rush it to the first person to run out.

It should be realized that our risk of causing violations of the Federal ambient air standards is greater if the State emission limitations are relaxed later rather than now.

The reason is that in a typical northern city the highest levels of emissions occur during the winter when heating plants are operating at full capacity. It is then that the highest sulfur oxide levels are likely to be observed. During the warm season, powerplants and industries could often burn higher sulfur fuels without causing the Federal standards to be exceeded.

A logical means of restoring balance to our energy supply and demand situation is to moderate the trends toward the use of distillates rather than residual oil in powerplants and industrial boilers, and toward the use of oil rather than coal in those plants capable of burning either fuel.

On August 29, 1973, I issued a proposed regulation establishing priorities of use and allocation of supply for low sulfur petroleum products to help alleviate the supply problems that were becoming evident in parts of the country.

This regulation would temporarily prohibit utilities and industrial and commercial firms from (a) switching from coal to petroleum products (b) switching from residual fuels to home heating fuels, or (c) increasing the quantity of distillates blended into residual fuel oil, except where such actions were absolutely necessary to meet health related air quality standards.

The reason I did not want to conserve more oil by requiring conversion back to coal was to avoid doing anything that might be interpreted as possibly resulting in a degradation in our air quality.

In closing, I would like to emphasize that I will do what I can to assure that the imported high sulfur fuels are burned where and when they will do the least harm.

Thank you.

Senator MUSKIE. Thank you, Governor Love, for your statement. I apologize for the fact that I was delayed by business of another committee. I understand that has been explained so I won't belabor it.

I take it that business has been resolved. So we can go on.

Mr. LOVE. How did it come out?

Senator MUSKIE. Let me make a point at the outset that I think it was well made in the testimony that Mr. Quarles was to deliver today before the Joint Committee on Economics. He said this: "Some of the misinformed would lay the blame for this shortage—this fuel shortage—at the door of environmental protection while the precise part played by environmental regulations is still unclear, it has certainly been exaggerated."

So what disturbed some of us, at least, was the rhetoric of the President's announcement of policy. It seemed to be the rhetoric of those who are all too quick to lay the blame for the energy shortage at the door of laws and regulations so recently adopted that they could hardly be a major factor that some would suggest.

To say there is no relationship would be unrealistic, too. So when I invited you to come here it was principally for the purpose of identifying the greater precision of the administration's view of the problem, the policies under consideration to deal with it and the agencies would have a responsibility and a role in shaping the temporary solutions.

We tried at the staff level to explore in the agencies the basis, the factual basis, for the President's announcement of policy. We weren't very successful. Frankly, we got the impression that there was none.

Your statement this morning I think goes some way toward clarifying that point. But, nevertheless, I think that there are particular questions that you touch upon somewhat in your statement that we would like to probe further.

Because there are so many members of the committee present, I think that we might each try to limit our initial questions possibly to 5 minutes. I think we will all cover question areas that others are interested in anyway. So I will try to limit myself to 5 minutes.

First of all, with respect to relaxing environmental standards I take it from your statement that there will be a positive effort not to relax Federal ambient air standards. What will be the safeguards to guard against that? What will be EPA's role? What will be Mr. Train's role in safeguarding against that possibility?

The reason I ask the question is this: It may well be, as you point out, that the interests of as clean air as we could get as some of the State implementation plans set emission standards greater than that to protect the ambient air standards of the Federal Government, but in cutting back on the State requirements it may well be that the cutback will have the effect of denigrating State or Federal ambient air standards.

I wonder what kind of machinery or procedure or policy would safeguard us against that.

Mr. LOVE. Mr. Chairman, as you know, under the umbrella, so to speak, of EPA, each of the States and some cities have developed implementation plans. Under the act, of course, there is the provision for variance. At the Federal level we legally, it is my understanding, have no power to adjust standards that have been set.

The procedure will be this: I am meeting with a group of about 10 Governors tomorrow to explain to them how we view the heating oil situation and the potential it has for shortage.

We are going to suggest to them that if they agree we believe it would be wise for them to seek on a specific basis on this area or that plant, and whatever it may be, the kind of variances that EPA then will look at on a case-by-case basis and presumably if it falls within the concerns that Mr. Train certainly has of protecting in the event that the variance would be granted.

We want to get the procedure, as I testified, started soon because of the leadtime involved and meeting what potentially could be a serious situation.

Beyond the review and examination of the hearing procedure, of course, in most instances or all instances, we, as I testified, are interested in trying to build the kind of system which can selectively direct the low sulfur fuel to the areas where it would be most needed.

Senator MUSKIE. Would it be made clear to them that the changes in emission standards should not be such as to endanger Federal ambient air standards?

Mr. LOVE. The primary standards, I believe, Mr. Chairman. The EPA for some time has suggested a delay of the implementation at the State level of the secondary standards.

Senator MUSKIE. What will Mr. Train's role be in monitoring this exercise?

Mr. LOVE. The authority to grant or not to grant variances rests in EPA.

Senator MUSKIE. Would he participate in the meeting with the Governors?

Mr. LOVE. Yes. He will be at the meeting.

Senator MUSKIE. Let me ask you this: It is obvious that you understand or agree, at least, with us in our understanding of the need to insure that adjusting our environmental policies to the energy crisis is sufficiently selective to avoid making changes in environmental requirements where it is not necessary.

How are you going to do this without an enforceable distribution policy for fuel? How are you going to insure that clean fuels go where they are needed most? How are you going to insure that implementing this policy does not operate to add to the difficulties of fuel deficit areas?

How can you possibly manage the available or projected fuel supply so that it is funneled into those areas where it is needed most in such a way as to insure that the impact on environmental standards is minimal?

Mr. LOVE. I apologize, Mr. Chairman, in not being fully responsive to that question. In my position as adviser on energy policy I have been in contact with the President and I am not at this moment at liberty to say exactly what that advice has been, but we expect to have some announcement in that general area very soon.

Senator MUSKIE. I was really probing not for an announcement of policy, but I was probing the commonsense of the proposition. My 5

minutes are up. I would hope that other members of the committee will address themselves to this question.

But I wanted to be sure it was opened up early in the hearing.

Mr. LOVE. Mr. Chairman, may I volunteer one other statement?

As I see this, the goal of the clean environment, which I share, I think potentially can be harmed to a greater extent if we indeed do have a crunch this winter.

You have already referred to the "blame-the-environmentalists" kind of attitude that seems to prevail with this whole energy thing. Neither you nor I agree with that, but I am afraid if we let some people get cold and stranded that that kind of feeling has at least the potential of growing.

I think that for the environmental goal, as well as the energy goal, we have a very real stake in making this thing work.

Senator MUSKIE. There is the other point that was illuminated so clearly in a very dark period. The smog alerts of the east coast around Labor Day, that you know it is very clear to anybody who isn't purely blind that the consequences of a failure to meet environmental standards is going to become more and more visible during that period. For instance, emergency admissions to the hospitals related to the respiratory ailments grows by 15 percent. So that is going to become more and more visible, too.

So what we seek here is a balanced program. Your responsibility is energy.

The President has every right to expect you to give full commitment to that responsibility. But I think we have got to be sure that against that is balanced a similar primary responsibility for the environmental. I am trespassing on Senator Buckley's time. I apologize.

Senator BUCKLEY. Not at all.

Governor LOVE, first of all, I want to say that I find your statement reassuring as to my principal concern, namely the public posture of the administration. I hope that your intention not to violate primary standards through relaxation is a message that goes out today.

One deficiency in your statement, I believe, is that I see nothing in it that reflects any policy towards energy conservation.

You state that if we have an unusually cold winter this year our import requirements might rise to 800,000 barrels a day. That presupposes that we keep the thermostats turned up to our accustomed levels.

I understand that our British brethern can survive the winters at somewhat lower than 72 degrees.

I was wondering, given the fact that burning 800,000 barrels a day of high sulfur content fuels is going to have some effect on the sulfur content of the air, are you thinking at the same time in terms of other standby regulations—specifically, conservation measures—that might one way or another really lessen the need for imports of that size?

Mr. LOVE. In the first place, that 800,000 is somewhere near the top of the scale insofar as everything not working well. Even at that point, of course, not all 800,000 barrels would be high sulfur fuel. As long as Libya continues we are still going to get some more of the sweet, low sulfur product from there and there is some from Nigeria and so forth.

I couldn't agree more that regardless of what the situation turns out to be that we must strongly push a conservation ethic. It is a little more limited. It can be effective in limiting in effect the kind of thing that can be done with gasoline. There isn't perhaps that much swing.

But certainly the need to convince people that they need that thermostat set lower, that the homes be properly insulated to the extent that they have storm windows and so on, which is an essential part of it. I didn't respond perhaps to the last part of your question. What was that?

Senator BUCKLEY. Do you have a standby policy that you are ready to implement under these circumstances that would in effect help offset some of the degradation aspects of burning more high sulfur fuel, by offsetting the demand?

Are you thinking of planning for such a contingency?

Mr. LOVE. If I understand you correctly, we do have in the planning stage a contingency plan which would end up in the rationing of fuel if it became necessary.

We do not foresee the need to implement it now. But I think that is the only other contingency plan that we presently contemplate.

Senator BUCKLEY. I would hope you would think in terms of conservation measures as well.

Mr. LOVE. We certainly are going to stress that.

Senator BUCKLEY. In another area, Governor, you state that "... the result was that over most of the State the restrictions were far more strict than was required to achieve the ambient air standards."

Have you been able to measure the amount of oil that could be released by relaxing the standards in a manner that would not violate primary ambient air standards?

Mr. LOVE. Yes. We have secured various numbers. I don't know how good they really are in that it is a complex thing to compute. We go through the amount that is used to blend the high sulfur residual with the Caribbean refineries. Someone has put a 200,000 barrel per day a gain on that if we did indeed relax. I am not sure that I can assure you of the exact amount. We believe that it would be major. It might make a very real difference.

Senator BUCKLEY. Would it be agreeable with you if some member of the staff of the subcommittee were to track down and try to find out the methodology here?

Mr. LOVE. Yes. I know that EPA has been looking at it. We can get some methodology there. Our analysis section at the Department of Interior also has some help and we can be putting some of those numbers together that would be helpful to you.

Senator BUCKLEY. Given the fact that the EPA has been working in this area for a number of years now and has developed a high degree of expertise in trying to analyze sulfur content and air quality of different areas, has the EPA been assigned a specific responsibility to work with you and your office in helping monitor and have a specific monitor of air quality and do they have a specific responsibility to give you the benefit of their information and recommendations?

Mr. LOVE. Whether formally assigned, certainly we have been meeting, I with Russell Train and my staff with the staff of EPA on many occasions recently. There is another meeting scheduled this afternoon. Russell Train will be at the meeting with the Governors tomorrow.

Ultimately, as I would repeat myself, it is EPA which is going to have the discretion to grant or not grant variances.

Senator BUCKLEY. Thank you. I think my 5 minutes are up, Mr. Chairman.

Senator RANDOLPH. I have indicated that in these three situations from the Louisville Gas & Electric Co., from the UOP Co., and from the General Motors Co., they are saying that we have the technology in part perhaps more than we realize, Mr. Love, to do this job of having clean fuels.

I only regret that frankly the Federal Government—let's say without blame to any particular source—hasn't been moving forward as you, I am sure, would know we should have moved forward many, many years ago; is that correct?

Mr. LOVE. I think it is so true that in the whole energy problem I have found that everything should have been done yesterday or last year or 10 years ago. I think it is time that we do, with a sense of urgency, get on with the job. I really feel that it needs to be pushed.

On the stack gas cleaning, I couldn't agree more that that holds the potential of a near- or middle-term alleviation for the problem. But as I am sure you know, even when we acquire the consistent, reliable stack gas cleaning technology there are also other problems with the disposal of the residue, with the whole problem of getting the coal industry back into production. Strangely enough we have, with all of those reserves, almost a shortage of deliverable coal at the present time.

Senator RANDOLPH. I want to emphasize that coal can be made, let's say, environmentally possible, in connection with our energy thinking. We can have clean coal and from it the power which I have indicated is needed. In this connection, I ask unanimous consent that the decision of the U.S. Court of Appeals in the case of *Appalachian Power, et al. v. EPA*, be included in the hearing record as an appendix.

Senator MUSKIE. Without objection. (See p. 105.)

Senator RANDOLPH. Governor, early this year we had before us in the Senate as you and my colleagues will recall, the fuel allocation bill. At that time I offered an amendment, sense of the Congress, and it was adopted, which calls for a reduction of vehicle speed by 10 miles per hour. That was to save gasoline.

In connection with that action I addressed a letter which I shall ask unanimous consent to include in the record to all of the Governors of the 50 States.

We have had replies now from some 55 percent of the Governors and most of them are on the affirmative side.

I think, also, that I would ask that we place in the record a newspaper account of a Gallup survey with the heading "Public Favors Limits on Speed To Save Gas." This is as recent, of course, as September.

Senator MUSKIE. Without objection.

[The letter and the Gallup survey referred to follows:]

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., June 7, 1973.

DEAR GOVERNOR: On June 4 the Senate adopted my amendment declaring it to be the sense of the Congress that speed limits should be reduced on our country's highways as a gasoline conservation measure. This amendment calls on the states to lower speed limits on all Federal-aid highways by 10 miles per hour or to 55 miles per hour, whichever is greater.

In view of the present gasoline shortage and the immediate prospects for its becoming even more severe, I believe this action could be instituted with relative speed and would produce significant savings in gasoline on a short term basis as

we attempt to secure a permanent solution to this problem. For your information, I enclose a copy of the Senate debate on this amendment.

The provisions of this amendment are not mandatory. The fuel shortage is a matter of serious national concern, and lowering speed limits is one way in which we can respond immediately, with positive results.

With best wishes, I am

Truly,

JENNINGS RANDOLPH.

PUBLIC FAVORS LIMITS ON SPEED TO SAVE GAS

United Press International

PRINCETON, N.J.—Although the American driver is frequently depicted as addicted to high speeds, a majority in a recent Gallup survey aware of an "energy crisis" favor reducing speed limits by 10 miles per hour as a way of conserving gas.

The 83 per cent in the survey conducted in June who said they had heard or read about the "energy crisis" were asked:

It has been proposed that, as a way to conserve gas, speed limits on the Nation's major highways be reduced by 10 miles per hour. Do you think this is a good idea or a poor idea:

	Percent
Good idea.....	51
Poor idea.....	27
No opinion.....	5
Not heard, read.....	17

Senator RANDOLPH. Governor, what similar recommendations are going to be made by you and others and publicized so the public will be not only aware, but encouraged to do something? Then it will be not just the Government acting, but the public acting in efforts of this kind so that they can perhaps live, live at least comfortably, with reduced energy that you have indicated might happen this winter?

Mr. LOVE. It may be repetitive. But let me stress again the need—the vital necessity—for dampening, that increase in demand for energy. It is my opinion, as I said in my opening remarks, that there is little chance we are going to materially increase our supply of energy for a period of at least 3, maybe 5 years, and if we are indeed to avoid chaotic conditions we are going to have to dampen the demand in an orderly way.

In addition to the action taken under the terms of the President's last energy message of actually cutting back some 7 percent at the governmental level, which by the way is moving very well, I think, we established an Office of Energy Conservation in the Department of the Interior. It is not, in my opinion, sufficiently funded, staffed as yet, but we are pushing. I have been pleased with at least the preliminary work that has been accomplished there.

We in the very near future will be pushing a much more detailed and aggressive energy conservation program than we presently are because it seems to me that that is the only relatively near-term solution.

Senator RANDOLPH. Mr. Chairman, I have stayed within my 5 minutes. I know members will want to question and comment upon the Governor's statement.

I am not sure what my schedule permits, but I do want permission, Mr. Chairman, to have several questions to which I will ask Governor Love to provide answers for printed in the record.

Senator MUSKIE. Without objection, I understand Senator Clark also would like to do that. Of course, any member of the committee may do so.

[The questions from Senator Randolph and Senator Clark follow:]

UNITED STATES SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., September 19, 1973.

HON. JOHN A. LOVE,
Director, Office of Energy Policy, The White House,
Washington, D.C.

DEAR GOVERNOR LOVE: I appreciated the opportunity to discuss the issues surrounding our energy situation at yesterday's hearing before the Subcommittee on Air and Water Pollution. The problem of providing energy which is adequate for our needs and consistent with our environmental objectives is a difficult one, but with the earnest cooperation of men such as yourself, I am sure we can reach that end.

At the conclusion of my brief period of questioning, I stated that I would submit several written questions to you. I hope that you will be able to respond quickly to these questions which are enclosed.

Again, thank you for your testimony on this important subject of critical interest to the Committee on Public Works.

With kind personal regards, I am

Truly,

JENNINGS RANDOLPH,
Chairman.

QUESTIONS FROM SENATOR RANDOLPH

Question 1. I notice that there is very little in your statement about energy conservation. What steps are being taken for this winter to minimize energy demand in non-critical areas, and to provide for the utilization of available energy supplies with maximum efficiency? In addition, for the longer term, has your office considered the savings in energy which might be realized from limiting the size of new automobiles or the speed of existing automobiles in use?

Answer 1. We are starting a public campaign to encourage energy conservation. This is being led and coordinated by the Office of Energy Conservation, Department of the Interior, and includes very active participation by the Department of Commerce, the Office of Consumer Affairs, and a number of other Federal agencies.

They are considering, among a number of other things, the savings which might be realized from limiting the size of new automobiles and reducing speed limits.

Question 2. Section 7(a) of the regulations you proposed on August 29 provided for exceptions from the prohibitions on fuel-switching in any case where "any person subject to this regulation can demonstrate that compliance would cause an undue economic hardship".

Have you considered the offsetting economic losses which might accompany even temporary delays in attaining the secondary ambient air quality standards, which were intended to prevent economic damage from air pollution?

Answer 2. We have, of course, considered the economic losses that might accompany even temporary delays in obtaining the secondary air quality standards. In practice, any such losses would appear to be extremely small. The secondary standards for sulfur oxides were set to prevent damage to vegetation. Some very rough estimates by the USDA indicate the total sulfur oxide damage to vegetation to be about \$6M per year for the whole country. This is quite a small sum in relation to the total cost of control. Thus, it appears that any economic damage which may result will be more than offset by the savings in control costs.

Question. 3. On page 6 of your statement, you suggest that higher sulfur fuels could be burned during the warm season without violating Federal standards. Does this mean that these higher sulfur fuels will begin to be burned soon, in advance of winter weather?

Answer. 3. The risk of causing violations of ambient air standards could be reduced significantly if high sulfur fuels were burned during the warm seasons while preserving the low sulfur fuels for use during the cold season. However, in practice, State laws and EPA regulations are such that permission to burn high sulfur fuels will probably not be granted until the winter crisis is upon us. Thus, I do not anticipate that there will be any significant increase in burning of high sulfur fuel in the very near future.

Question. 4. The First Circuit Court of Appeals, in a case dealing with the Environmental Protection Agency's approval of the implementation plan of Rhode Island, states that exemptions or variances proposed to be given by states must be individually and specifically approved by the Administrator of the Environmental Protection Agency. On pages 4 and 5 of your statement, however, you suggest that needed variances will be quickly granted. Since individual hearings will apparently be necessary on such variance requests, how can such quick action be assured?

Answer. 4. While there may be a large volume of variance requests to be approved, this does not mean that each request cannot be acted on quickly. I hope the EPA will be able to do so.

It is also possible that some States might choose to make permanent provisions in their State Implementation Plans which would affect a number of sources. This would minimize the number of actions that EPA might have to take.

QUESTIONS FROM SENATOR CLARK

Question 1. When the President mentioned relaxing air quality standards, what exactly did he mean? What steps is he taking or does he plan to take to relax the standards?

Answer 1. When the President mentioned relaxing air quality standards, what he had in mind was reducing the sulfur emission limits where this could be done without threatening the standards under the Clean Air Act. The steps being taken include having the Governors of key oil using states in and explaining the policy to them and having members of the Administration request the States to make such changes in regulations.

Question 2. Do you agree with Russell Train that relaxation of air quality regulations only means granting temporary variances in emergency situations?

Answer 2. In many cases, the States have set emission levels that apply to the whole State on the basis of conditions in their largest cities. In such cases, it may be possible to make permanent relaxation of the emission limits in the areas outside of the polluted cities. Thus, a State might very well choose to request a permanent relaxation of ambient air standards. In certain areas, often rural, such relaxation would help to free up low sulfur fuel for use in the polluted urban areas, minimizing the risk of a serious enough emergency to require temporary variances given under emergency conditions.

Question 3. What is your reaction to Train's saying that mandatory allocation should be used along with variances—so that the variances can be kept to a minimum?

Answer 3. There is no reason to believe that mandatory allocation will reduce the need for variances. The need for variances arises because our total domestic production of low sulfur fuel is less than the amount that consumers are attempting to buy. A mandatory allocation program just spreads this low sulfur material around without increasing the total supply.

In order to make any mandatory program administratively feasible, it will be necessary to base it on historical use in certain periods. This will result in freezing the pattern in fuel distribution to that which prevailed in a base period. This loss of flexibility can very well make it harder to direct low sulfur fuel to our urban areas. To the extent we can use our powers under the mandatory program to encourage use of the low sulfur fuel where they are most critically needed, we will be doing so.

Question 4. By what percentage will relaxing standards increase fuel supplies?

Answer 4. We have estimated that relaxing of sulfur standards will make it possible to import 200,000 more barrels a day of distillate fuel oil. In addition, relaxation of residual fuel oil limits should make it possible to free up an additional 100,000 barrels a day of distillate now used for blending in the Caribbean. It is also anticipated that relaxation of residual fuel limits will encourage individuals to switch to residual fuel oil and away from distillate fuel oil, freeing up additional distillate fuels. Finally, we are faced with a shortage of residual fuel oil and a relaxation of sulfur limits is needed to permit increased imports of fuel oil.

Question 5. Why do you consider relaxing Clean Air standards a more viable alternative for dealing with fuel shortages than a mandatory allocation program?

Answer 5. Mandatory allocation programs are devices for spreading shortages around, not for increasing the supply. Relaxation of sulfur emission limits (which does not necessarily mean relaxing the ambient air standards set under the Clean Air Act) is a measure intended to increase the total supply. Thus, the two are not really alternatives. As you know, we are pursuing both policies concurrently.

Question 6. What is the current status of the mandatory allocation program?

Answer 6. At this time we are in the process of writing a mandatory program for distillate fuels. We have already implemented one for propane. The program for distillate fuels will be implemented in the very near future.

Question 7. President Nixon has talked about conservation measures and called for conservation within government agencies, but his State of the Union message included no mention of fuel conservation. Is there any real commitment within the administration to conservation?

Answer 7. There is a real commitment to fuel conservation within the Administration.

Question 8. Do you have a list of proposals on energy conservation—dealing with possibilities like decreasing car size, improving building insulation, increasing mass transit? Is the Administration doing any work along these lines?

Answer 8. The Office of Energy Conservation has developed a list of proposals on energy conservation. These include improving building insulation, increased use of mass transit, greater use of small cars, weather stripping, utilization of high levels of ventilation and lighting only when required, etc. The Office of Energy Conservation and other Federal Agencies have major programs to develop and implement such proposals.

Senator MUSKIE. Senator Domenici?

Senator DOMENICI. Mr. Chairman, may I inquire of the Chair what we are going to do in terms of time? Is the witness going to return after lunch? A number of us have a 12:30 p.m. policy luncheon on our side of the aisle. We are going to be late for it. Is he going to return after lunch or what did the Chair have in mind?

Senator MUSKIE. I understand that Governor Love has a 2 o'clock hearing. I thought that we might continue until 1 o'clock. It may be that we could then make a judgment as to whether we might like the Governor to come back at some other time, if not this afternoon.

But until 1 o'clock and we have completed the first round of questions, that might be useful.

Senator DOMENICI. I will proceed and probably won't even take my 5 minutes.

Governor Love, I am concerned. If you look on page 5 of your statement there is a sentence that says, "An alternative strategy would be to direct the lower sulfur fuels to our polluted cities and to use the higher sulfur materials elsewhere." A similar statement is made at the top of page 4 with reference to Maryland's rural area versus its urban areas and a state of pollution and nonpollution, so as to speak.

As I understand it this is within the framework of not having any impact on the primary standard, but rather than that, you are talking in the area of degradation or the significant degradation question that has been raised and passed upon by the Supreme Court as far as our Federal laws are concerned.

Could you tell me what procedure do you intend to use with reference to this approach of degradation, if that is what you are going to use by causing the high sulfur to go to the area that is cleanest and be burned there in the lower sulfur where it is presently polluted?

What procedure are you going to use to determine where it goes and to assure us that it is a temporary situation?

Mr. LOVE. In the first place, until we know what significant degradation is, it is going to be difficult to devise a strategy. The EPA currently is holding hearings. I think that I have heard where there has been at least some possibility of the Congress acting as far as clarifying its intent in regard to significant degradation.

If it is interpreted in one way, it can very significantly interfere with many of the possible programs that would be devised to produce more energy.

Insofar as the current, what I would define as an emergency kind of situation, it would have to be within some sort of program. The program would direct the fuel, I suppose negatively, by the action of the EPA in refusing to grant a variance in one specific area and granting it in another.

Senator DOMENICI. One other part of this problem that comes to my mind is the question of allocation of these various shortage commodities that you refer to in the area that you testified to. I am not speaking of gasoline and everything else. But I did not notice any mention in your plan to your being involved in utilizing authority to come up with a forced plan versus something voluntary. Would you just comment on that briefly, please?

Mr. LOVE. As you know, we have had this very intensely under consideration and discussion. I testified yesterday before a House committee that I specifically had no power to implement a mandatory program. My position is adviser to the President. I would rather leave that at the moment.

We expect to have some conclusion very quickly on that.

Senator DOMENICI. So that is under discussion at the executive level as to your recommendations or the President to the Congress in that area?

Mr. LOVE. Yes.

Senator DOMENICI. Is it actively being discussed now?

Mr. LOVE. Yes.

Senator DOMENICI. One other aspect, with reference to the process called the gasification, which is extremely clean in terms of its environmental involvement and can produce at one phase or another fuel to be burned for the production of energy and is indeed clean, I note no discussion of it here. I take it that is because this is a very short term analysis, but you would agree that it has some significant merit in terms of the whole area of utilization of our coal in a clean manner to produce the kind of energy we are talking about here, that in stable, stationary type of facilities for energy distribution?

Mr. LOVE. I certainly do. As I say, the midterm kind of solution, it seems to me, must lie in large part in the utilization of our coal resources, the stack technology, the gasification, the liquefaction, the whole problem of surface mining, the transportation and so on. All of these must be solved and solved quickly if we are indeed to respond to this situation in the appropriate time.

You know that El Paso Natural Gas has a proposed gasification plant with the coal mine in the Navajo reservation that they are in the process of finding their way through the various agencies that do have some response. Again, it is an example of the inherent, built-in de-

lays we have in practically all of these things that we have to address ourselves to.

Senator DOMENICI. That one is in New Mexico, as you note, the one you are referring to.

I have one last question. With reference to the nonsignificant degradation procedure that we are going through in EPA you will be in contact with them as they develop recommendations to us while you develop this program of going to the Governors for the approach to utilization of sulfur where the air is cleanest on a temporary basis; is that correct?

Mr. LOVE. Yes, that is correct. Although, as the Chairman is aware, I consider my charter as advocate for energy, I think that is certainly a large part of my function. Certainly neither I nor the administration simply want to do energy at any cost whatsoever. We will be following with a great deal of interest.

I think that somehow, perhaps through a structured program that would be somewhat parallel to the environmental impact statement, we do need to make sure that decisions taken at the governmental level of any major consequence at least take a look at the effect that they may have on the supply or demand for energy.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator MUSKIE. Senator Biden?

Senator BIDEN. Thank you, Mr. Chairman.

I, as others, Governor, have a number of questions. I would like permission to submit those for the record.

Senator MUSKIE. Without objection.

Senator BIDEN. I won't touch on specifics in other things that have been raised here.

Governor, I am a little confused as maybe others are. I don't know. You point out that this is a long-range problem, our energy problem. You see it getting worse before it gets better; that the interim solutions that have been offered, many of them seem not only to be short term, but possibly if not shortsighted maybe counter productive.

My concern is that what we are going to be doing by lessening some of the standards is quite possibly encouraging the oil industry not to develop the technology that is needed now in order to, for example, just refine our crude.

I wonder whether or not you see that as any possible threat, that once in motion, once in motion this lessening of the standards that the pressure to keep it in motion or at least not turn back the other way would be such that we are going to continue to move in the direction of, for example, deepwater ports, offered as a solution when at the same time we say we are going to develop offshore reserves and we see that within the near future we will be able to depend on our own oil reserves, energy reserves, yet we are going to spend billions of dollars constructing deepwater facilities and boats and ships to carry them.

Do you see any inertia in the other way?

Mr. LOVE. No. I don't share your concern. It may be that my judgment is affected by the concern that I have for the very near term, the heating oil being available for the people of the United States in sufficient quantity this year.

The kind of solutions, for example, the desulfurization equipment and refineries and so on, has a long leadtime and cannot possibly respond to the situation this winter. We have to at least do everything we can to maximize imports and increase the supplies to the extent we can to meet the potentially difficult situation.

The other comment that you made that it seems to me a misconception, if I understand the problem, is that somehow in the very short period of time we are going to become self-sufficient, I simply do not believe that to be true. Certainly not so far as petroleum supplies are concerned. We are using about 17 million barrels a day of petroleum at the present time, that in the past has been increasing on an annual basis of an additional 1 million barrels per day. So to make one example, if the Alaska pipeline came on line with 2 million barrels a day, 3 years from now, we would have already a net deficit of 1 million if we continue at that rate.

Senator BIDEN. That is the point some of us made at the time.

Mr. LOVE. The self-sufficiency that I see, maybe not self-sufficiency that would support the continual doubling of energy in a total of 15 years, but the self-sufficiency that I see is farther down the line but it relates to substitute fuels of coal, the oil shale, geothermal, the nuclear ultimately and perhaps hydrogen technology and fusion. But the petroleum situation if we are to maintain anything near our demand are still going to have to increase our imports for the period of at least 5 or more years, in the mid-eighties is usually the number used.

Senator BIDEN. That whole area is an area I would really be anxious to get into depth with you on. I hope you will have an opportunity to come back, because I am just a skeptical fellow that doubts some of the premises upon which some of the assumptions are made.

But to move to an area Senator Buckley made which I think is the most significant in that I think the administration is most shortsighted on, maybe we in the Congress, also, maybe the Nation as a whole, is conservation. We all continue to talk about what is going to happen, what our energy needs are going to be, without addressing ourselves to the question of what they should be and how we are going to attain that. Although we hear in the Congress and in the public and from the administration a good deal of rhetoric of the need to conserve, the need to tell the public, I don't expect you to be able to answer it now, but I am most anxious to hear it, specifically how that is going to be done, how we are going to make that recommendation.

The estimates that I am told, from the deepwater port hearings we are conducting and the oil companies, that we use 40 to 52 percent, depending on whose estimate you take, of all refined oil to make our automobiles run. Yet, I don't hear anybody really in terms of those in the position of being able to do something about it, like the administration, really directing themselves to that particular question.

As I said, that is too difficult to respond to in a few minutes.

I would like to ask you one very specific question. In the fuel allocation bill that was on the floor of the Senate not long ago, still in the House, I introduced an amendment making it mandatory. You have responded to Senator Domenici, I think, but I would like to try to pin down a little more. Is the administration taking the position in the House to delete that amendment which makes the allocation mandatory or is it taking no position at all with regard to that provision of the Senate bill which now makes it mandatory?

Mr. LOVE. To the best of my knowledge, we are taking no position in the House. We have been neither opposing it nor advocating it.

Senator BIDEN. Thank you very much.

[Senator Biden's additional questions follow:]

ADDITIONAL QUESTIONS FROM SENATOR BIDEN

Question 1. I would like to receive additional detail as to how your strategy of using higher sulphur fuels will work to relieve a possible shortage of fuels.

On the one hand your statement says, as do representatives of oil refiners, that many refineries in the United States were built to refine low sulphur fuel and cannot refine the largely higher sulphur fuels that are imported. Your statement seems to agree with one by the National Petroleum Refiners Association that even with environmental controls eliminated it would take a year or more to make technological changes necessary to develop capability to refine more sour crude without a shortfall in production. All of this seems confirmed by the fact that some refineries are operating at less than capacity because they cannot refine the only product available to them, sour crude.

On the other hand your policy seems to be to import, refine and use more sour crude as a means of meeting energy requirements.

Can you explain fully to me the apparent (but perhaps not real) contradiction of saying that we do not have the capability of refining more than limited quantities of sour crude but we must relax clean air standards to permit the use of more sour crude.

Answer 1. You are correct that many American refineries cannot utilize sour crudes. This is a major part of our current problem, since most foreign crudes are high sulfur. However, there are a number of refineries which are physically equipped to handle high sulfur crude, but which are utilizing domestic low sulfur crude for environmental reasons. In some cases, this is because the high sulfur products that would be produced cannot be marketed under existing sulfur regulations. In other cases, the problem is that emissions from the refinery itself would exceed legal limits if high sulfur coal were run. If environmental restrictions were relaxed sufficiently to allow these refineries to utilize high sulfur foreign crude, the low sulfur crude they are now utilizing could be diverted to the refineries that cannot physically handle high sulfur crude. Thus, indirectly our sulfur restrictions are resulting in the denial of low sulfur crude to certain refineries.

Question 2. In earlier discussion I expressed my concern that the proposed relaxation of sulphur emission standards—which is referred to as minimal—was only a beginning effort by the oil companies to lower clean air standards. Not only am I afraid that we will never restore the standards now being relaxed but that this is an opening wedge for greater relaxation. My concern is increased by National Petroleum Council estimates that expenditures for environmental needs in a large refinery may cost in excess of 10% of the total current plant investment. I have also heard that if refiners had to use sour crude for 20% of their present sweet crude capacity and meet environmental standards, the result might be a loss of one million barrels per day in production. So I would like to follow up with two questions.

(a) You indicated that your concern might be less than mine because you were primarily concerned with the fuel oil problem this winter. Do these really represent the Administration's priorities and, if so, could you explain further the justification for concentrating on this immediate problem to the apparent virtual exclusion of concern for the long range health of the nation as represented by clean air standards?

(b) In answer to another question you indicated that the relaxation of standards was temporary and would be lifted next spring, but might have to be relaxed again in future years. This strengthens my concern that the relaxation may become permanent because I would have thought that within the next few years the oil industry could have utilized technology to permit refining of low sulphur fuels from sour crude. Can you explain why the oil companies should not be taking steps right now that would make future relaxation of standards unnecessary?

Answer 2. I can assure you that we are not merely concentrating on the short term problem to the complete exclusion of the long range health of the nation.

If this was truly our priority, we would be requesting across-the-board relaxation of sulfur standards and immediate conversion of power plants back to coal.

However, for this winter, the Administration has come to the conclusion that there really is a choice between a fuel shortage for this winter or some relaxation of environmental rules somewhere. I have set out the reasons for this in my testimony. It appears clear that unheated homes represent very serious health hazards which are much more serious than any health effects resulting from sulfur oxides in the atmosphere. Thus, we have adopted a policy of requesting States to relax sulfur emission limits where this can be done without causing the levels of sulfur in the atmosphere to rise above the level which EPA has determined would be hazardous to health.

b. The oil companies could be taking steps now that would make future relaxation of standards unnecessary. However, any construction of desulfurization facilities will take several years. For technical reasons, one cannot desulfurize all of the barrel of crude, and some high sulfur residual remains. We must leave a market for this high sulfur residual. There are numerous areas in the country which can utilize such high sulfur residual fuel oil without threatening ambient air standards. There is little reason why in such areas the same sulfur limitations should be applied as are required for our largest metropolitan areas.

Question 3. I was very concerned that your testimony did not indicate a major commitment to a long-term, comprehensive energy policy. Such a policy would, of course, indicate a concern for immediate problems, but only in the long term context of conservation of energy, national growth policies, alternate energy sources, environmental priorities and a multitude of other factors. Would you comment on what is currently being done to develop such a policy and what its priority is?

Answer 3. We, of course, do have a long term comprehensive energy policy which has been set out on several occasions. It includes a \$10B program of research and development for new and less polluting forms of energy, development of alternative energy sources, protection of the environment and energy conservation.

Question 4. It is my understanding that our refineries turn an amazing 40-50% of a barrel of crude into gasoline. Based in the economics of refining and practice in other countries a figure nearer 20% would be reasonable. This high production of gasoline means there is less diesel fuel and less home heating oil per barrel of crude. Does it really make sense to allow the continuation of top priority to gasoline production if we are indeed short of fuels generally? If we are really in trouble doesn't it make sense to cut back on fuel for boats, for snowmobiles, pleasure driving, etc. to provide the essential fuels for trucks and busses, for farm machinery and for home heat? Is it not more sensible to refine fuels for essential purposes, assure their proper allocation through a mandatory allocation plan and cut back on other uses rather than opening the clean air act up?

Answer 4. You are right about the pattern of refining in the U.S. We have succeeded in producing a much larger volume of gasoline from crude oil than other countries have. On the world market it is significantly cheaper to purchase fuel oil than gasoline. In addition, American specifications are such that little European gasoline would be suitable for use in this country. Thus, given that we do have the capacity to produce a high volume of gasoline to meet our needs, we should do so and do our importing in the form of fuel oil, if we can. This minimizes the balance of payments effects of imports and maximizes the quantity we can import. However, you do have a point and I expect that this winter we will be trying to increase production of distillate fuels.

If we get into a real crisis, it is obvious we should be cutting back on pleasure driving before we make major cuts in use by trucks, farm machinery, and home heating. However, it should be realized that there is considerable scope for reducing the use of fuel in applications such as home heating. For instance, weather stripping can greatly reduce the use of fuel for home heating. It is very difficult to devise a scheme that reduces the use of fuel for boats, snowmobiles, and pleasure driving, while making it available for other uses. Even with a very cumbersome system of coupon rationing in WWII, it proved very difficult to prevent non-essential use of gasoline.

Because the States have frequently set sulfur regulations they go far beyond what is needed to meet the mandate of the Clean Air Act, there does not appear to be a conflict between meeting the requirements of the Clean Air Act and supplying fuel for other uses. However, it is not obvious that people would choose a lower level of sulfur in our atmosphere at the expense of being denied the use of boats and autos. This is especially likely in the geographical areas where the level of sulfur in the atmosphere is below where health effects are observed. It is not at all clear to me that the public would deny themselves picnics (by giving up gasoline use to go on them) in order to lower the level of sulfur oxide in the countryside that they can no longer have access to. This is especially likely when it is realized sulfur dioxide is a colorless gas and that the public would not be able to see the difference (even if they could get gasoline to go see for themselves) and that the sulfur dioxide level would be far below the levels that EPA considers hazardous to health.

Question 5. You indicated that you are working on an energy conservation program. In that connection I would like to raise three questions:

(a) Can you give me a detailed report on the status of your efforts to develop a conservation program and, assuming it is somewhat advanced, an outline of the kind of program you expect to put into action?

(b) Specifically what plans do you have for directing your efforts to major corporations which are so large that simply a shift (for example) to compact cars would result in major gasoline savings? Another example of the kind of thing I am thinking about is a policy of constructing office buildings to conserve energy. Can you tell me generally what type of program will be directed to these big users as compared to the homeowner and car driver?

(c) Are we going to abandon our efforts to save gasoline in the winter months when there is no "shortage" even though reductions in winter gasoline use could allow refining of other fuels in greater quantity?

Answer 5. a. The development of a conservation program is under the Office of Energy Conservation in the Interior Department. The program being developed has a number of elements, including advertising in the public media, as well as statements in support of energy conservation such as those that have been given at every possible opportunity. We are supporting measures such as increased insulation of homes, weather stripping of doors, slight lowering of temperatures in buildings and measures to reduce industrial use of energy.

b. A conservation program is being applied to all sectors of the economy including major corporations. The Federal Government is planning for Manchester, New Hampshire, an energy conserving office building to show what can be done to reduce use of energy.

c. We are not abandoning our efforts to save gasoline during the winter although the emphasis in our conservation drive will shift to conserving heating fuels.

Question 6. If we succeed in developing greater national oil resources, do we still need to construct super ports off our coast? Would not a lessening of dependence on mid-east oil lessen the need for such ports?

Answer 6. We will not succeed nor would we necessarily want to develop sufficient domestic oil resources to eliminate the need for imports. This is true even if the Administration succeeded in getting all that it has asked for in the way of gas deregulation, the Alaskan pipeline, and off-shore drilling.

Even if we were not receiving Middle Eastern oil, super ports will be needed to handle oil from other areas.

Question 7. Again in connection with deep water ports and VLCC's, might it not make sense not to become too dependent on these things, even though the price of fuels might rise? In fact, might not a rise in gasoline costs, for example, represent a good energy conservation measure?

Answer 7. In general, there is much to be said for not becoming too dependent on foreign oil. However, given that we must import petroleum, it does seem wise to bring it in large ships to minimize the cost and preserve the environment. Preservation of the environment results because we reduce the number of ships bringing in the oil and hence reduce the chance of collision. Also such ports would be close to the ocean eliminating the trips into our crowded harbors and up our crowded rivers where the risk of an accident is greatest.

Senator MUSKIE. Senator Stafford?

Senator STAFFORD. Thank you, Mr. Chairman.

Governor Love, I found your statement very helpful. I noted at one point in it that the inventory of distillate for heating was 173.4 million barrels at the end of August. From some other information in front of me, I also noted that our daily consumption in the winter is 4 million barrels a day, which indicates to me there is about 45 days' supply of distillate if we were going into the winter.

If we should develop a shortage in home heating oil and distillate generally, would that likely occur before January?

Mr. LOVE. I think not. I think that if indeed we do hit the kind of problem that we might hit, I think it is going to be in the first quarter of next year.

Senator STAFFORD. However, would it not be fair to say that warnings that there could be a shortage should be taken seriously and the fact there may not be any between now and the first quarter of next year, there is no particular reason to assume that everything is fine and there is plenty of oil on hand. Is that a fair statement?

Mr. LOVE. That is certainly true. It is obvious that the inventories must be built up because the use exceeds our rate of production, and therefore we have to have an accumulated inventory and built up in sufficient time and there is leadtime again on that in getting the imports in and getting it transported.

Senator STAFFORD. Let me ask a parochial question at this point: There is still some home heating accomplished in the Northern New England States and mine, particularly, with kerosene. We had a dealer who handles kerosene among other distillates in our office yesterday whose normal inventory at this time is 175,000 gallons. He only has 10,000 gallons and his suppliers, BP, I think British Petroleum, apparently cut him off and won't supply him any further distillate.

Is there anything that your office could do about that?

Senator MUSKIE. I would like to cosponsor that question.

Senator STAFFORD. I had hoped you would.

Mr. LOVE. Do you know, Senator, was BP supplying that from Canada?

Senator STAFFORD. I don't know where it was coming from, but I could certainly get details on it.

Senator MUSKIE. The main source is largely in Canada, I think, and I suspect it may be from there.

Mr. LOVE. I have to confess that I am not sure about what the supply of kerosene is. We have been spending a good deal of time with propane and other problems, but I will be glad to take a look.

Senator STAFFORD. I have just been told that the dealer in question was getting his supply from Green Island in New York, whatever that might mean. But I thought I should mention that, since apparently this is going to occur in some of the Northern New England States this winter. It may be an overlooked matter behind all of the other problems we have.

Senator MUSKIE. It is regarded as an old-fashioned fuel for home heating, but it is used in modern jets. I think maybe we could cut down on jet transportation just long enough to insure we are warm in New England.

Mr. LOVE. In my youth, we called it coal oil.

Senator STAFFORD. That is still the word used around here.

Senator McCLURE. Would the Senator yield, because this may tie in with the demands that have been made by Con-Ed for the expansion of supplies for fuels for turbine, gas turbine generators, which are the least efficient means of providing electricity in terms of Btu. Yet, they are making these demands and it would hinge directly upon the kerosene supplies for New England.

Mr. LOVE. Con-Ed, and I am sure many other utilities, use turbines fueled by this jet fuel which is the same fraction as kerosene to provide peaking power. They report a very great concern about a shortage.

Senator STAFFORD. Mr. Chairman, I have a final question of the Governor. That has to do with the possibility of rationing that might become necessary. Have you gone as far in your contingency plans as to work out actual rationing plans in the event a shortage develops in distillate fuels?

Mr. LOVE. I can't give you the specifics. I can talk to you conceptually about it. It is a much more difficult thing to implement than to plan, for example, a rationing system for gasoline. The only thing you can do, I think, is identify those activities that are the least harmful to curtailing or do away with.

As to our economy and our society, the Northwest, as I mention in my statement, has a power hydroelectric shortage. They not only talk in terms of cutting back on some activities; but they are launching a stringent conservation campaign. Illumination of outdoor signs, night events such as a night football game mandated closing times—five 8-hour days, perhaps one shift a day—for stores are all being considered. It would be, I think, that we have to look to somehow being able to adjust and decide if you have a 15-room house and a 2-room house, and so on, it would be a difficult thing to do.

Senator STAFFORD. Governor, you shook me on that night football games. Does that mean we have lifted one blackout only to run into another?

Thank you, Mr. Chairman.

Senator MUSKIE. Senator McClure?

Senator McCLURE. I might just observe, too, if we could turn off all of the TV sets in watching all of the football games, we would conserve quite a lot of energy. I am not going to propose that because I would lose what support I might have for any other program.

One of the problems that has been referred to here repeatedly is the necessity for mandatory allocation, to be able to move fuels around precisely. I don't want to belabor that point, but you have referred in several places in your statement to getting low sulfur crudes to refineries that can handle only low sulfur crudes. That may require a mandatory allocation of crudes, making certain that the low sulfur fuels get to the areas where they are needed at the time they are needed and that they are not deprived by other areas that otherwise would use them also.

I just want to make one point and ask one question. I have seen this statement so often that I think it raises a question in the minds of many people; that is, that stocks of distillates are up. It was my understanding of the facts that the stocks are up 2.3 percent, but the demand is up 10 to 12 percent. So that in relation to demands, stocks

are actually a smaller proportion of the demand than they were last year. We are not gaining ground because of increased distillates. I think the fact that distillate stocks are up and is repeated so often in public comment lulls people into the expectation that there is no problem this winter, that we got through the summer without severe problems on gasoline, therefore we will probably get through the winter without severe problems on distillates. I think that is a disservice to the public understanding of what must be done in regard to meeting this winter's problems, which are very real.

You have suggested in your various programs that we not go any further in shifting fuels from high sulfur to low sulfur, we don't go any further from coal towards oil, that we don't go any further from residual to distillates. But you have specifically shied away from asking them to turn back the clock a little and move back into using some higher sulfur fuels even during periods of the year when they could use higher sulfur fuels than they are now using.

I refer to The Washington Post ad today, "Stop Wasting Scarce Petroleum by Getting the Electric Utilities out of the Home Heating Business." This was sponsored by the Petroleum Association, a member of the National Oil Jobbers Council. To do that will require a mandatory allocation. It would require something a little bit stronger than the statement you have indicated you are prepared to back. Is that correct?

Mr. LOVE. I think it would be stronger and separate and apart from what we have been talking about here in the past about mandatory, voluntary and so on.

Actually, to enforce the shift under some timetable, and of course it would take some time, you have to have the plants at once that need to be converted. However, to actually decree that they move from a specific fuel into coal or whatever would take further authority than I believe is possessed under the statute, the Eagleton amendment, at the present time. It also would require that a very close look be taken at the environmental impact of such shift such as away from coal now under boilers. Without a really proven stack technology, it would be perhaps wrong.

The end goal, obviously, has to be to move petroleum and petroleum products out from under boilers, because there simply is not going to be enough petroleum to use it that way. I think it is going to be necessary to reserve it for further uses.

Senator McCLURE. I want to comment on one further point and ask you for your comment. You have suggested as Senator Domenici pointed out that we make certain that low sulfur fuels are sent to the areas where it is necessary and to the urban areas of the country. I would point out a dilemma with which we are confronted in my State and I think in Colorado, to a lesser degree. The Mountain States seem to have been plagued by shortages of gasoline more than other areas of the country I think because there was a marketing shift in favor of the urban areas at the expense of the rural areas.

Secretary Butz, as I have pointed out, has called for an increase in agricultural production to meet the food crisis in our country and to meet the real crunch the housewife is getting in the supermarket as food prices go up because of food shortages. Secretary Butz is exactly right, we must expand food production. But if we are going to expand food production, it requires increased energy. The very areas of the

country that would suffer most under the policy of sending low sulfur distillates to the urban areas at the expense of rural areas would make it impossible for us to meet this commitment of increased and expanded food supply in the rural areas of our country.

I don't know that you have an answer to that question, but it seems to me we must confront it. It must be confronted in real terms and in positive actions, for example, "yes, we will give the urban areas the low sulfur fuel they need when they need it, but we are going to reserve distillates for the rural areas in order to produce the food that this Nation so vitally and so desperately needs for the consumers of this country."

Mr. LOVE. Just to add one other problem on top of that, Senator, which I am sure you are familiar with. In addition to energy generally in the agriculture area, a large percentage of the fertilizer we use is a product of gas production. It is declining. The hydrous-ammonia industry is primarily going down, it is only at about 80 or 85 percent capacity and the demand is up. But generally both on your concern about agriculture, and other concerns about other energy uses, it points out one very great difficulty. Of all of the people who have written, or called, or called on me, I haven't found anybody who didn't think that his or her or their use of energy needed a priority at or near the top.

Senator McCLOURE. That is where you are, I guess, to make those decisions as between the conflicting groups. I guess on behalf of agricultural production I will take my chances in terms of a national assignment of priority. I think the President's voluntary allocation program called for an absolute priority for agriculture and for transportation. I would think that that will be followed as we move into the area of mandatory allocations. I don't see how we can do otherwise, if we are going to meet our goals next year as far as food production is concerned.

But this hearing is directed primarily toward the air quality problem. I am concerned about the impact that food production has upon air quality programs and how much impact the air quality programs have upon food production in the context of this hearing.

I will conclude only by saying that in that context the Council of Environmental Quality in its report which is the fourth annual report of the Council of Environmental Quality makes reference to whether or not environmental goals have had an impact upon the fuel crisis. There is no doubt left from the language of the Council on Environmental Quality that air quality standards also played a role and they amplify upon that. I would certainly agree with our chairman of this subcommittee that it is not a total problem, but it does play a role. I think we must recognize it as we grapple with these various problems.

Thank you, Mr. Chairman. I wonder if I could submit some questions on behalf of Senator Baker?

Senator MUSKIE. Of course, without objection.

[Senator's Baker's questions follow:]

UNITED STATES SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., September 21, 1973.

Hon. JOHN LOVE,
Director, Office of Energy Policy, The White House, Washington, D.C.

DEAR GOVERNOR LOVE: I wish to thank you for the promptness with which you responded to our invitation to testify before the Subcommittee on Air and Water Pollution regarding the President's energy policy and the Clean Air Act and for

the candor with which you described the potential conflict between sufficient energy and clean air.

I regret that my schedule did not allow me to remain for the entire hearing and to raise certain questions regarding recent actions of the Office of Energy Policy. Although I know how busy you and your small staff are in attempting to find answers to the difficult questions of energy policy facing the Nation, I would appreciate your providing for the record of the September 18 hearing answers to the enclosed questions regarding the OPE August 29 Proposed Rule Making on priorities for use of certain low-sulfur petroleum products. Please enclose any additional supporting documents as well.

I would appreciate your response to these questions not later than Monday, October 1, so that we may enclose the material in the hearing record. I wish you all success in carrying out the task which you have begun with such promise.

Sincerely,

HOWARD H. BAKER, Jr.

QUESTIONS FROM SENATOR BAKER

1. Sec. 110 of the Clean Air Act provides for State adoption and Federal approval of implementation plans to achieve national primary and secondary standards. Upon approval such plans have the force of Federal as well as State law and may be so enforced. Regulations proposed by the Office of Energy Policy in the Federal Register of August 29, 1973, set priorities for use of certain low sulfur petroleum products. The regulations prohibit industry, utilities, etc. from: a) switching from coal to petroleum products, b) switching from residual fuels to home heating fuels, or c) increasing quantities of distillate blended into residual fuel oil except where absolutely needed to meet primary ambient air quality regulations. (emphasis added) The regulations purport to "preempt, in part, State implementation plans and associated individual source compliance schedules required under the Clean Air Act—"

Question. Upon review of the Economic Stabilization Act as amended by P.L. 93-28, I find no legal authority for preemption of the Clean Air Act or any regulations, rules, or implementation plans pursuant to it.

a. What is the legal authority for preemption of the Clean Air Act?

b. What legal memoranda or opinions from EPO, EPA, Justice Department or elsewhere exist which justify this preemption? Will you provide these for the record?

c. Why were these regulations issued by EPO and not at least in part by EPA which by law administers the Clean Air Act?

d. I understand that EPA opposed issuance of these regulations on grounds of the law as well as on the public policy grounds that they (1) would have minimal impact on improving fuel supply or decreasing demand, (2) would seriously jeopardize achievement and maintenance of Clean Air Act standards, notably in big cities, and (3) would preclude fuel switching by older plants that have no other real alternatives. Is this essentially a fair statement of EPA's objection? In any event, how do you answer these points?

e. The Clean Air Act provisions in question were drafted carefully to ensure that sources of pollution had to meet requirements which were uniformly stringent by given deadlines. This assumed that, under "the polluter pays" principle, the regulated parties would search out solutions to the pollution they were causing and apply those which were most cost-effective. Now, through these regulations, the Federal Government would forbid one means, and in some cases, the only means, available to clean up some sources of emission. How equitable is this blanket prohibition, regardless of whether it achieves any significant fuel supply savings?

f. I understand that these regulations, in practical effect, would apply to only a few power plants and a handful of other sources, since most fuel switching has already taken place. How many sources would be affected? Please identify them and their location. Doesn't this limited practical effect point up the inequity of the regulations?

g. Is there an environmental impact statement on these regulations? If so, please provide it together with the required EPA and other agency comments. If not, why not?

h. How have these regulations been changed pursuant to the recent Interior Department hearings on them? When will they be published?

ANSWERS TO SENATOR BAKER'S QUESTIONS

1. a. The Economic Stabilization Act gives authority to allocate fuel and set priorities for its use. This regulation sets a priority that says that where coal or residual fuel oil can be burned and is now being burned, such users shall have a lower priority for the use of such fuels than users who may not be able to use coal. The fact that some users are currently using coal provides very clear evidence that they are physically equipped to use this relatively abundant fuel. A similar argument applies for residual fuel oil, and for high sulfur residual fuel oil in particular.

b. Discussions were held with EPA and the Justice Department on the legal aspects of this question.

c. These regulations were issued by the EPO because we have the authority delegated by the President to act under the Economic Stabilization Act in this matter. EPA does not. These regulations were discussed extensively with EPA before being issued. EPA adopted a policy of their own encouraging people to shift away from the use of coal.

d. It is not appropriate for me to comment on what actions EPA recommends on these regulations.

e. Faced with a very serious national fuel shortage, preventing some sources from shifting their operations so as to contribute to this fuel shortage certainly appears to be an equitable action. In particular, it keeps those now using a low sulfur fuel from being denied fuel because other users converted to low sulfur fuel.

f. You are correct that these regulations would affect only a small number of power plants. We do not know what sources would be affected. Regulations that would affect only a small number of people are not necessarily inequitable.

g. There is an Environmental Impact Statement and I am enclosing it.

h. We will be making some modifications taking into account the comments we received at the Department of the Interior hearings. They will be issued after such suitable modifications have been made, and the legal requirements of NEPA have been met.

Senator MUSKIE. May I add this comment to the last comment?

The tendency to which I object is the tendency to isolate environmental costs or causes of the energy problem from all of the others. You hear about the automobile standards, ignoring all of the other penalties, most of them greatly associated with the automobile, including the size of the automobile, but all of the attention focuses upon the last, the environmental one. That is my objection.

I am not going to belabor it. I would like to suggest, Governor, before I get into my last two or three questions, since several other members of the committee expressed an interest in a more comprehensive discussion of some of these issues, that we arrange another visit by you to this committee at the right time and that right time may well be following a further definition of the policy; following a meeting of the Governors and other Governors. Your policy is in a condition of flux at the moment. You haven't worked out all of your implementation plans. You obviously have some new policy decisions under consideration.

So at the right time I think we would like you back and we can agree upon the time later.

I would like to put one question that has persisted throughout all of this questioning in the context of a table that is found in the discussion paper that was circulated. I do it with reference to a statement that you made this morning.

You said this: "Because of lack of desulfurization capacity, and use of Middle Eastern crudes, her"—I would gather you mean Middle East—"distillate supply averages about 0.6 percent sulfur."

This table that I would like to put in the record identifies the oil sulfur regulations in the various air quality regions in urban America. I assume you have seen the table, but let me just refer to some illustrative examples that would seem to me highlight the problem.

With respect to distillates and the 1972-73 heating season, the New Jersey-New York region required 0.2 percent. The requirement is the same for the 1973-74 season.

Going down through and in metropolitan Providence, the requirement was 1 percent; 1 percent in 1972-73. It is the same for 1973-74.

In the case of the Niagara Frontier Region, it was 3 percent in 1972-73 and the same for 1973-74.

Mr. LOVE. Three?

Senator MUSKIE. Three. Therefore 11 air quality regions identified. The sulfur requirement is identical for both 1972-1973 and 1973-1974 except in two or three instances.

In the case of Connecticut, interstate, the requirement drops from 1 to 0.5. In the case of Hartford-New Haven-Springfield, it drops from 1 to 0.7. In the case of National Capital it drops from 0.7 to 0.6. But largely the requirements are the same for both heating seasons.

The second point I would like is that in most of them, the majority of these regions, the requirement is above the 0.6 percent at which you say the Middle Eastern crudes average out.

If that is the case, then it seems to me an argument can be made that since you can take care of, meet the sulfur requirements in a majority by number—I don't know what it is by population—but by number of the air quality regions with Middle Eastern crudes on the average, the argument could be made for using the domestic crudes on a selected basis under a policy that would effectively divert them into these areas for the areas of lower requirements.

That might well take care of a substantial portion of the problem. Would you want to comment on that?

Mr. LOVE. I don't think I can be very helpful in specifics on that. I certainly will review that and I would, of course, confirm that it is not our intent to burn or use high sulfur fuels where it is not necessary, but I also would suggest that if this committee or Mr. Train, or whoever it might be, could assure me that there is no problem, I would be less interested, but I have a very real concern about the situation and we will review that in mind.

We don't want to simply burn it when we don't need it.

Senator MUSKIE. Let me ask you a specific question. This table enumerates some things you, yourself, suggested as policy guidelines. So the question that is rather obvious is, do we know how much distillate fuel we have or can expect to have that would meet, that would come under the standards of the more restrictive air quality regions?

Mr. LOVE. I don't have those numbers down. But I am sure we can make a pretty good estimate on that, yes.

Senator MUSKIE. What are the options for insuring that that relatively clean fuel goes into the areas where it is needed? What are the options for insuring? What are the possible policies that would move it where it is needed?

Mr. LOVE. Of course, first, historically the restrictions themselves, the refusal of the consumers to buy, obviously, when they can't use it without violating the standards, historically has pushed the better fuels into those areas that have the higher restrictions.

If the market, and the market system I suppose would break down as a result of shortages and so on, then the only other strategy that I know of would be to somehow restrict.

Senator MUSKIE. Part of your case is that some areas have required where it isn't absolutely necessary to that isn't an effective mechanism. That is your argument here. Since more has been acquired than is necessary, somehow we have got to moderate the requirements.

But then the next question is if we moderate the requirements how do we insure that the fuel goes where it is needed most?

Are you contemplating a determination date or recommending a termination date for variances?

Mr. LOVE. Yes. They would be designed simply for the winter months, terminating in April.

Senator MUSKIE. So if your recommendation is adopted there would be an automatic reversion to the requirements that are moderated?

Mr. LOVE. Yes. We intend to make this simply a temporary thing. But in the event we cannot, over the years ahead, increase quickly the desulfurization activities and so on, I don't see that the situation next winter will have improved very materially.

We have to work toward that. While we intend to make this temporary, until we find longer-range solutions, it is possible that we are going to have to be looking at the same situation again.

Senator MUSKIE. I guess I had better leave that longer-term question to another hearing. I noticed you looking at your watch. I know your commitment at 2, so I won't delay you longer, but only on the understanding that we will get another opportunity to examine this developing policy and hopefully influence it in a sound way.

Thank you, Governor.

I will submit some written questions to you.

[The questions referred to follow:]

[QUESTIONS FROM SENATOR MUSKIE]

Question 1. At the conclusion of the hearing, you stated, with regard to your proposal that sulfur oxide restrictions be relaxed: "In the event we cannot over the years ahead increase quickly the desulfurization activities and so on, I don't see that the situation next winter will have improved very materially." "While we intend to make this temporary, until we find longer range solutions, it is possible that we are going to have to be looking at the same situation again."

The recent report of the Federal Interagency Committee: Evaluation of State Air Implementation Plans (the SOCTAP Report) has stated that one of the important factors limiting installation of available stack gas cleaning technologies is: "An anticipation that regulations may be altered in the near future."

(a) Doesn't the fact that sulfur regulations will now be relaxed two winters in a row, along with the suggestion in your concluding remarks that further relaxations may occur in the future, significantly reduce pressures on industry to adopt new technology to clean up sulfur emissions?

(b) What counter policies do you propose to maintain maximum pressure on industry to adopt sulfur oxides control technology to counter the disincentives inherent in your position that standards will be relaxed if they cannot be met?

(c) Senator Randolph pointed to the availability of sulfur oxide control technology during the hearing; and the SOCTAP Report confirms: "Sulfur dioxide removal from stack gases is technologically feasible in commercial-sized installations." To provide adequate demonstration of these processes and develop a strong commercial market for them, is there any reason why such presently available stack gas control technologies should not be immediately applied to all Federally owned steam electric power plants, such as those operated by the Tennessee Valley Authority?

(d) By significantly reducing pressures to adopt desulfurization technology in favor of a policy that clean air standards will be ignored if they cannot be met, do we run a risk of very serious dislocations in the future if it should be found that, as some studies have indicated, the threats to health from sulfur oxide pollution are more serious than we had previously believed? Also don't the present disincentives to clean fuels technology defer the date when we can achieve energy self-sufficiency in a way that will assure that public health will not be threatened?

Answer 1. a. It may have some effect in this direction, although I am not certain that it would be at all a significant reduction in those pressures.

b. EPA is quite effective at exerting pressure on industry, as are the Congressional Committees.

c. There are several reasons why such stack gas technology should not be immediately applied to all installations. The primary one is that no domestic stack gas cleaning facility has yet demonstrated acceptable reliability. Another one is the extremely high cost that would be involved. The TVA advised us that this would cost about \$1B for them alone. They have clearly documented that such devices are not needed to meet the ambient air standards in the vicinity of their plants. Thus, there seems to be no reason to impose such a large burden on consumers. Because the TVA is non-profit, it is clear that such costs would be borne by their customers.

An additional reason is that there will probably be major changes in stack gas cleaning technology in the near future. Construction of a number of identical plants using an unproven technology can easily result in the need to make major modifications to all those facilities to correct faults found in the first ones. If we wait until a technology has been shown to work reliably, we may be able to avoid being locked into a technology that either does not work or works poorly.

This is the same argument that has led the military to adopt a fly-before-buy policy, even though national security was at stake.

A third reason, of course, is that you usually have to shut down the power plant to install stack gas cleaning equipment. If adequate power is to be maintained to the TVA, the installation of any such equipment would have to be spaced over a period of time. Our ability to construct and install stack cleaning equipment is very limited. If we were to divert this capability to TVA installations, it would have to be at the expense of installations in areas that display a more serious need for such devices.

d. We do not run an appreciable risk of more serious dislocations in the future since we are already proceeding at a very rapid pace at removing sulfur oxide pollution. It is not clear what disincentives to clean fuels technology you are referring to.

EPA, through our new source performance standards programs and ambient air standards, has provided extremely powerful incentives for clean fuel technology. These have had the effect of greatly decreasing our probability of achieving energy self-sufficiency.

Question 2. Currently, several of the major coal producing companies are owned by companies whose primary purpose is the production and sale of oil and other petroleum products. This would appear to severely restrict the competitive factors which otherwise might encourage new technology developments, including pollution control equipment, to improve the competitive position of coal vs. oil. Is the Department of Justice anti trust division currently investigating the control of some major coal companies by oil companies, and if not, would you be prepared to recommend such an investigation and if necessary, action under the anti trust laws to improve competition in our energy industries?

Answer 2. I do not know if the Department of Justice is currently investigating the control of major coal companies by petroleum companies. It would be inappropriate for me to recommend what action, if any, they should take.

Question 3. What are the current and projected exports of low sulfur coal and refined and unrefined petroleum products for the years, 1973 and 1974?

Are any restrictions on the exports of these products being considered?

Answer 3. There are large exports of low sulfur coal principally for metallurgical purposes. In 1970, 70 million tons of coal were exported at a value of \$950M. Most of this is low sulfur coal. It is logical to believe that the current efforts to force the burning of low sulfur fuel through new source standards and regulations under State Implementation Plans will result in decreases of the exports of such coal. The values in 1973 were probably similar. Thus, our clean air standards are likely to have a major impact on our balance of payments. Exports of refined and unrefined petroleum products are extremely small, going primarily to areas in Mexico and Canada which are adjacent to the U.S. We are not now considering restrictions of exports of low sulfur coal. Should a large volume of exports of refined products occur, we may have to consider restrictions on exports.

Question 4. As we discussed at the hearing, homeowners in Maine, Vermont and some other states are facing the prospect of shortages in kerosene to heat their homes this winter. As we also discussed, these homeowners will be competing for fuel supplies with the nation's major airlines since jet fuel and kerosene are similar petroleum products resulting from the same refining process. Also, travel by jet aircraft is, according to a Department of Transportation Study, the "least energy efficient" of major transportation modes and we know that there is a significant over capacity of jet aircraft on routes between some of our major metropolitan areas.

(a) In light of the inefficiencies and over capacity in some jet airline transportation, do you believe it would be appropriate to impose controls to reduce the inefficiencies of the commercial airlines operations in order to make more kerosene available for home heating?

(b) What actions are you taking, directly or through cooperation with the Federal Railroad Administration, the Civil Aeronautics Board and Amtrak to improve the competitive position of rail passenger service—the most energy efficient transportation mode—compared to airline service—the least energy efficient transportation mode—in short distance trips where the two modes of transportation are or could be competitive?

(c) Would you support a subsidy for passenger rail service in order to promote its utilization in place of less energy efficient modes?

Answer 4. a. This would appear to be a matter for the Civil Aeronautics Board. The CAB is looking at the scope for reducing the use of jet fuel, as are the airlines themselves. They are adopting, where possible, policies that allow for increased load factors and for reduced flight speeds. Both serve to conserve fuel.

b. I have not attempted to set transportation policies in my current job. This is the job of Secretary Brinegar, who is cognizant of the current energy shortage problems we face.

c. As I indicated before, transportation policies are not my responsibility. I would have to defer to Secretary Brinegar to develop a recommendation for an administration position on questions such as rail subsidies.

Question 5. Much discussion of the energy crisis has focused on proposed solutions that relate to weakening environmental laws. Another area that may hold promise for action is in the management of the Federal system with its vast purchasing power and position of leadership and visibility in the nation. Therefore, with regard to the Federal system I would like to know what actions are being taken to conserve energy. Specifically:

(a) The Federal Government other than the Department of Defense, purchases almost exclusively vehicles with gasoline engines because of the present lower initial purchase cost of gasoline engines. Diesel engines have been demonstrated to be significantly more energy efficient than gasoline engines and to have lower operating and maintenance cost which make the ultimate cost of diesel vehicles cheaper than gasoline vehicles. In light of this, has the General Services Administration been directed to revise its purchasing practices, at least as regards to trucks, to purchase diesel trucks instead of the gasoline trucks it presently buys? What is the position of your office with regard to the purchase of diesel automobiles by the Federal Government in order to create a market for those vehicles in this country?

(b) Have the General Service Administration, the Department of Housing and Urban Development, and other Federal agencies implemented policies which would cease the practice of constructing or renting buildings, or subsidizing construction or rental of buildings, which have sealed windows or otherwise depend on constantly operating heating and air conditioning systems for ventilation?

(c) Federal Government currently subsidizes parking by its employees to encourage them to drive motor vehicles to work but provides no comparable subsidy for those who take more energy efficient public transportation modes. Are you prepared to recommend that this policy be revised?

(d) Is there any reason why the Federal Government should continue to purchase and/or operate the number of large, fuel inefficient cars it currently provides free for many of its top executives. Is there any reason why these cars could not be smaller and more efficient?

Answer 5. a. The Office of Energy Conservation is looking at ways to reduce the use of energy by the Federal Government. One thing that should be looked

at is the use of more energy efficient vehicles. In some cases, these could be diesel powered.

b. The Office of Energy Conservation, along with the Agencies mentioned, are looking at methods to save energy in buildings. I would point out that sealed windows can be very efficient in reducing the amount of infiltration of outside air that has to be heated. Much depends, obviously on a number of factors.

c. The Office of Energy Conservation is currently examining a number of ideas and options to encourage more efficient use of automobiles (car pools) and public transportation. The Department of Transportation has been funding various bus lanes and other experiments. Several ideas are being explored.

d. There may be some scope for having smaller and more fuel efficient cars. and, in fact, GSA is purchasing a larger proportion of such cars now, and will continue to do so.

SECTION-BY-SECTION INDEX

NOTES ON THE USE OF THE INDEX

1. The Index is preceded by Table I comparing the sections of ESECA (P.L. 93-319) with the comparable provisions in the major bills leading to its passage. The chart is arranged in chronological order beginning with the most recent, ESECA, and working back to the first reported Senate and House bills on emergency energy legislation. A dash (—) in place of a section number indicates "No Comparable Provision."
2. Table II shows sections of the Clean Air Act Amendments of 1970 that were amended or added by various sections of ESECA.
3. The Index, itself, is keyed to the sections in ESECA, listing the page number in documents and debate referring to the section indicated. Bold figures in the index denote particularly significant references.

TABLE 1.—COMPARISONS OF SECTIONS OF ESECA (PUBLIC LAW 93-319) AND MAJOR BILLS LEADING TO ITS PASSAGE

Public Law 93-319	Senate amendment No. 1303, in the nature of a substitute	H.R. 14368 as reported	S. 3267 and H.R. 13834 as introduced	S. 3287 Administration's Proposal	S. 2589 as vetoed	S. 2589 First Conference Report	S. 2589, as reported	Bills affecting specific sections	H.R. 11450, as reported
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Suspension authority.	3	2	201	8	201	201	205	S. 2680	202
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Waivers for new technology innovations.				4					
Assessments of civil penalties.				5					
Enforcement orders extending past attainment dates.				6					
				7					

TABLE II.—SECTIONS OF THE CLEAN AIR ACT AMENDMENTS OF 1970, AFFECTED BY THE ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Provision of Clean Air Act amended by ESECA	Section number	
Suspension authority.....	119.....	Established by sec. 3, ESECA.
Implementation plan revisions.....	110(a)(3), 110(c)(2).....	Amended by sec. 4, ESECA.
Motor vehicle emissions.....	202(b).....	Amended by sec. 5, ESECA.
Fuel economy study.....	213.....	Established by sec. 10, ESECA.
Extensions of Clean Air Act authorizations.....	104(c), 212(i), 316.....	Amended by sec. 13, ESECA.

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First Conference Report—S. 2589 [section 101(b) (1)]--	1145
H.R. 11450-----	1476
House Report, H.R. 11450 [section 101(b) (1) and (2)]--	1504, 1524, 1531
H.R. 11882-----	1598
Senate Report, S. 2589 [section 102(f)]-----	2529, 2543, 2561

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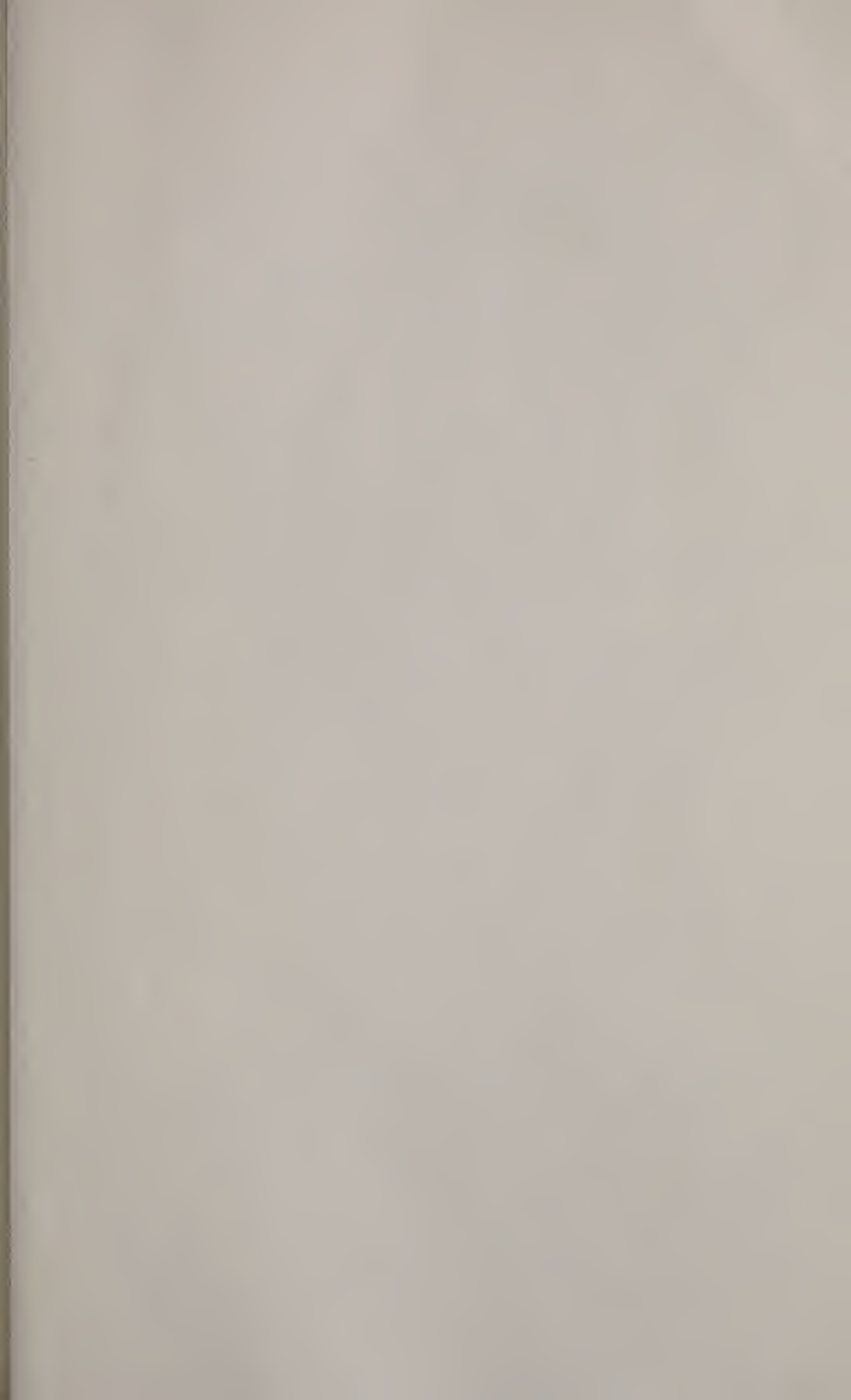
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